Court of Appeal, Second Appellate District
Eva McClintock
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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE

Case No. B355195

MAX DAVID BORENSTEIN,

Respondent,

v.

SOFIYA ALEXANDRA GOLDSHTEYN,

Appellant.

Appeal from the Superior Court of California,
County of Los Angeles - Case No. 22STFL08826

Hon. Scott J. Nord, Judge

APPELLANT'S APPENDIX
VOLUME 7 OF 11

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Date of Hearing: June 11, 2002

ASSEMBLY COMMITTEE ON JUDICIARY
Ellen M. Corbett, Chair
SB 1301 (Kuehl) - As Amended: April 8, 2002

SENATE VOTE : 22-12

SUBJECT : REPRODUCTIVE PRIVACY ACT

KEY ISSUE : SHOULD CALIFORNIA'S LAW RELATING TO abortion BE CENTRALLY LOCATED IN A NEW STATE Reproductive Privacy Act WHICH WILL provide, among other things, that every individual possesses a fundamental right of privacy with respect to reproductive decisions?

SYNOPSIS

This bill deletes various statutory provisions regarding abortion and enacts in their place a new centralized state Reproductive Privacy Act. This Act will provide, among other things, that every individual possesses a fundamental right of privacy with respect to reproductive decisions, and the state shall not deny or interfere with a woman's right to choose. In support of the bill, women's rights and medical organizations contend that this is a good and long needed clarification of the current state of the abortion law in California. Opponents argue that codification of Roe vs. Wade is a huge mistake. They also contend that an abortion should not be seen as a celebration of privacy.

SUMMARY : Deletes various statutory provisions regarding abortion and enacts in their place a new state Reproductive Privacy Act. Specifically, this bill :

1) Deletes scattered sections pertaining to reproductive privacy issues and enacts a new California Reproductive Privacy Act, which provides that "it is the public policy of the state of California that (a) every individual has the fundamental right to choose or refuse birth control; (b) every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article; and (c) the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically

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permitted by this article."

2) Repeals Section 123410 of the Health and Safety Code and in its place provides that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

3) Provides that the performance of an abortion is unauthorized if either of the following is true:

   a) The person performing or assisting in the abortion is not a health care provider authorized to perform or assist in an abortion pursuant to Section 2253 of the Business and Professions Code; or

   b) The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.

4) Defines various terms, including 1) pregnancy (defined as "the human reproductive process, beginning with the implantation of an embryo,") and 2) viability (defined as "the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.")

5) Deletes the provision in existing law that provides that the Department of Health Services (DHS) shall have a system established for the reporting of abortions to determine their demographic effects, and to assess legal and medical standards pertaining to abortion practices, and report its findings to the Legislature every two years.

6) Deletes the reference to the "Therapeutic Abortion Act" and instead provides that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

7) Provides that a person is subject to criminal penalties 1) if he or she assists at a surgical abortion and does not have a

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valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or 2) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.

8) Provides that for the purposes of this section, "nonsurgical abortion includes termination of pregnancy through the use of pharmacologic agents."

EXISTING LAW :

1) Authorizes, in the Therapeutic Abortion Act, that a holder of a physician's and surgeon's certificate may perform an abortion only if it takes place in an accredited hospital and is approved by a committee that finds that 1) there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother, and/or 2) the pregnancy resulted from rape or incest. (Health and Safety Code sections 123400, 123405, 123415. All further code references are to this code unless otherwise stated.)

2) Provides that the committee noted above shall not approve an abortion on the ground that the pregnancy resulted from rape or incest unless either the district attorney (DA) upon review of an affidavit from the applicant for the abortion, notifies the committee that probable cause exists to believe the pregnancy resulted from rape or incest, or the DA fails to respond to the committee. (Section 123407.)

3) Provides that if the DA informs the committee that there is no probable cause to believe the pregnancy resulted from rape or incest, the applicant for the abortion may petition the superior court for a hearing. If the court determines by a preponderance of evidence that the pregnancy resulted from rape or incest, it shall issue an order to this effect and the committee shall approve the abortion. (Id .)

4) Has declared, through case law, that these sections' medical criteria and approval processes for obtaining an abortion are unconstitutional. (Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983)

462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.)

5) Provides that the committee of medical staff referred to in Section 123405 must, in all instances, consist of not less than two licensed physicians and surgeons, and if the proposed termination of pregnancy will occur after the 13th week of pregnancy, the committee must consist of at least three such licensed physicians and surgeons. (Section 123410.)

6) Provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy. (Id .)

7) Has invalidated this section's requirement that an abortion must be approved by a medical committee. (People v. Barksdale , supra , 8 Cal. 3d. at 328. Questions remain as to

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its validity regarding prohibition on abortions after the 20th week of pregnancy. (See, e.g., 65 Ops. Atty. Gen. 261; and Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.))

8) Provides that DHS shall establish a system for the reporting of abortions to determine their demographic effects and to assess legal and medical standards pertaining to abortion practices, and shall report its findings to the Legislature every two years. (Section 123430.)

9) Provides that the performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct, unless done in compliance with the Therapeutic Abortion Act. (Business & Professions Code section 2253.)

10) Provides that a person is subject to criminal penalties for the unlicensed practice of medicine if he or she performs or assists at a surgical abortion and does not have a valid physician's and surgeon's license, or a certificate obtained under another law authorizing him or her to perform or assist at a surgical abortion. (Id .)

FISCAL EFFECT : As currently in print this bill is keyed fiscal.

COMMENTS : If one were to rely solely on a review of California's statutes regarding our laws regulating abortion, he or she would end up with a substantial misconception about the

current state of this law. For, as the author notes in support of this legislation, many of our statutes governing abortion have been rendered obsolete by federal and state Supreme Court decisions. The problem is, they still remain on the books, and have yet to be repealed or modified in accordance with controlling case law. The result, she notes, "is a cryptic, often inconsistent abortion code that is laden with constitutional problems." The author also states that these outdated statutes also single out abortions for unnecessary regulation that has not been imposed on more complex procedures, and the existing statutes fail to address and accommodate major advances in medical practice, such as early abortion methods like mifepristone (otherwise known as and hereafter referred to as RU-486).

According to the author, this bill, sponsored by Planned Parenthood, addresses these problems comprehensively by:

protecting Californians' fundamental right to choose a safe and legal abortion (even if the Supreme Court further reduces the federal protections contained in Roe v. Wade.)

providing greater access to early abortion methods like RU-486 by eliminating arbitrary barriers that currently

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impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

deleting language in current state law that has been found unconstitutional in state and federal courts.

treating abortion like other comparable medical procedures, and allowing healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

allowing for future advancements in medical science relative to non-surgical abortion techniques by not limiting them, while simultaneously clarifying that medication-induced abortions is an appropriate method to be included among other non-surgical abortion techniques.

In support of these changes, the author concludes with this comment:

We have an anti-choice President, an anti-choice

Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade . Now is the time to protect our right to choose - right here in California. SB 1301 will keep abortion safe and legal in California even if the Supreme Court overturns Roe .

Background : The state's existing abortion law, called the Therapeutic Abortion Act, was signed by former Governor Ronald Reagan and took effect in 1967. This act provided for women's access to abortion services, but spelled out various conditions that had to be met before a woman could obtain an abortion. (See, e.g., Sections 123400-123450 of the Health and Safety Act, noted above.) In the 1970's, a number of sections were added to the Therapeutic Abortion Act, primarily dealing with "conscience clause" issues and the treatment of fetal remains.

Several Current Abortion Statutes Are Invalid And Appropriate For Repeal: In 1972, the California Supreme Court declared several provisions of the Therapeutic Abortion Act - those requiring prior approval by a medical committee, and limiting approval to cases of rape, incest, or where the pregnancy threatened to "gravely impair" the physical or mental health of the mother -- impermissibly vague and therefore unconstitutional. (People v. Barksdale , supra, 8 Cal. 3d at 333.) Other provisions facilitating these statutes - those requiring the input of the DA, establishing the proper formation of the medical committee, and defining "mental illness" for the purposes of the Act - were declared invalid as well. (Id . at 334.)

The following year, the U.S. Supreme Court declared that a right

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of personal privacy exists under the Constitution, and that this right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." (Roe v. Wade , supra, 410 U.S. at 153.) An explicit right to privacy added to the California Constitution in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in Roe v. Wade . (Committee to Defend Reproductive Rights v. Myers (1981), 29 Cal. 3d 252, at 280.)

In 1997, the California Supreme Court invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion. (American Academy of Pediatrics v. Lungren (1997) 16 Cal. 4th 307, 314.) Thus, this bill's proposed repeal of the

above-referenced provisions is consistent with current law.

Thus, since its inception in 1967, a number of state and federal court decisions have rendered various provisions of the state's Therapeutic Abortion Act wholly or partly invalid, and have left the validity of other provisions open to serious question. Despite their unconstitutionality, however, these provisions have remained largely unchanged in the state's Health and Safety Code, because the Legislature has never repealed or modified them in accordance with, or in response to, these court decisions. This bill finally addresses this confusing statutory situation by deleting the provisions of the Therapeutic Abortion Act that have been ruled unconstitutional. The bill also revises certain other provisions as well, including the name of the state's reproductive rights act. In its place, the bill enacts a new Reproductive Privacy Act, as further detailed below.

The Bill Does Not Repeal Or Otherwise Affect Most Other Provisions Of The Act . In addition to the provisions noted above found unconstitutional, this bill repeals two other provisions of the Therapeutic Abortion Act: Section 123400, which gives the Act its name, and Section 123430, which requires DHS to collect abortion statistics for demographic purposes and report them to the Legislature.

The remaining provisions of the Act are not addressed or affected by this bill, and will remain in force if this bill is enacted. Those provisions are:

(1) the "conscience clause" provisions, which protect health care professionals who decline to perform or assist in abortions from any discipline, penalty, lawsuit, or employment opportunity as a result of their refusal [Section 123420];

(2) a provision prohibiting an individual's refusal to consent to abortion or sterilization from being grounds for loss of any privileges or denial of public benefits [Section 123425];

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(3) a provision establishing that an infant prematurely born alive in the course of an abortion has the same right to medical treatment as other infants [Section 123435]; and

(4) the provisions governing research and study of fetal remains [Sections 123440 and 123445].

Consistency w/ Judic opinions

(1) First Trimester No state interference allowed

This Bill's Provisions Appear Consistent With Judicially Established Parameters For The Regulation Of Abortion . (1) Under the parameters established in Roe v. Wade , the right of personal privacy outweighs any legitimate state interest in a woman's pregnancy until the end of the first trimester of that pregnancy. (410 U.S. at 164.) (2) After the first trimester, a state may regulate abortion in ways "reasonably related" to protecting maternal health, and at the point the fetus becomes viable, the state may regulate and/or prohibit abortions in the interest of protecting the "potentiality of human life" of the viable fetus, except where abortion is necessary to preserve the life or health of the mother. (Id . at 164-65.)

(1) Respect for the Right To Privacy In the First Trimester . This bill allows appropriately licensed or certified health care professionals to perform or assist in performing nonsurgical abortions, which will permit the administration of approved early-abortion facilitating drugs such as RU-486. This expansion of abortion rights appears wholly consistent with Roe's mandate that states may not interfere with a woman's right to terminate her pregnancy in the first trimester.

(2) Regulations Related To Maternal Health : This bill also continues to require abortions to be performed by appropriately licensed health care professionals; subjects those who do not comply with the Reproductive Privacy Act to professional discipline; and subjects unlicensed abortion providers to criminal sanctions, in conformity with current law.

(2) Regulations Relating To Preserving Life Of Viable Fetus : In conformity with Roe v. Wade , this bill also prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

ARGUMENTS IN SUPPORT : A plethora of women's rights and medical organizations are in strong support of this legislation, uniformly expressing concerns about the erosion of abortion rights in California and the urgent need to ensure continuing and reasonable access to abortion services.

The California Commission on the Status of Women supports SB

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1301 as "a contemporary law" to govern abortion in California, adding, "this measure is necessary to ensure that California women's right to reproductive freedom is protected by a constitutionally sound abortion law."

The American Association of University Women-CA also supports the bill, stating it "ensures that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future." The group states that "[w]ith the advent and approval of RU 486 ... women have other options besides surgery to end an unwanted pregnancy. SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice."

The League of Women Voters writes in support, stating that the bill "assures women increased access to safe and early methods of abortion by clarifying the ability of health care providers, acting within their existing scopes of practice, to perform or assist in performance of surgical and nonsurgical abortions."

Other supporters point to the continued efforts of some groups to repeal abortion rights as a reason to strengthen California's protection of those rights. The California Women's Law Center notes that "a woman's right to choose has been under constant attack since the U.S. Supreme Court decided Roe v. Wade," and calls SB 1301 "a crucial piece of legislation" to codify the "hard fought gains for women and girls" achieved through Roe and other decisions.

The Grey Panthers of California express similar views in support of the bill:

> [W]e are concerned about the potential for erosion of women's rights, especially in view of the antiquated and unconstitutional provisions of the Therapeutic Abortion Act of 1967. . . . Women should have an undeniable right to early abortion methods such as RU-486 and to health professionals [who can perform and assist in] surgical and nonsurgical abortions. . . . We strongly support the Roe v. Wade decision and stand firm against any threat to the rights that decision permitted.

The American College of Obstetricians and Gynecologists,

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California chapter, asserts that "the termination of a pregnancy before viability is a medical matter between a woman and her physician." The ACOG supports "the availability of all reproductive options" and opposes "unnecessary regulations or laws which serve to limit or delay access to care, such as those provisions of the Therapeutic Abortion Act being repealed by this measure."

The California Family Health Council writes, "SB 1301 protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services."

The California District of the American Academy of Pediatrics notes that personal differences of opinion about abortion should not limit women's access to legal medical procedures:

> Individual California pediatricians, like other individuals, have differing personal views on abortion. However, as an organization of professional health care providers to children and adolescents, the AAP-CA believes strongly that no inaccessible. Those who oppose abortion may voice that opposition and educate others about their views. However, it is not appropriate for abortions to be singled out for unnecessary regulation (unrelated to the medical procedure itself).

The writer concludes,

> Current California law relating to abortion is inconsistent and in places incoherent. Yet the health care system is intended to serve each individual according to his or her needs, rather than to act as an enforcer for the will of any interest group. SB 1301 would make the laws accessible and consistent so that choice is not blocked.

ARGUMENTS IN OPPOSITION : Several groups wrote the Committee in strong opposition to the bill, principally objecting to the bill's codification of Roe v. Wade . Although opponents concede that the bill will bring California abortion law into conformance with Roe v. Wade , they assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision. Further, opponents express concern that Roe v. Wade

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has never been ratified by Congress.

Capitol Resource Institute writes in opposition, stating that "while men and women certainly have not only a right but a responsibility to exercise prudent birth control measures, babies have the 'fundamental right' to expect that once conceived they have the right to expect that their mothers will give them a chance to protect them and allow them to live... SB

1301 also says that the state shall not deny or interfere with a women's right to choose an abortion. This raises a question: What about a doctor who refuses to perform an abortion based on his or her personal beliefs? Could that doctor be considered to be interfering with a woman's "fundamental right" and therefore be penalized?"

Campaign for California Families opposes SB 1301 because it "celebrates the killing of pre-born children as a 'fundamental right.' Abortion ends a pregnancy by destroying and removing the developing child... Approximately 93% of all induced abortions are done for elective, non-medical reasons such as these. Destroying innocent human life for convenience is wrong and should not be seen as a celebration of 'privacy' or anything else."

California Right to Life also opposes the bill, stating it "would result in effectively installing a state version of the federal Roe vs. Wade Supreme Court decision with major expansion provisions."

The Committee on Moral Concerns (CMC) opposes the bill for several reasons. First, it asserts that the bill's declaration of an individual's fundamental right of privacy conflicts with a right to abortion, which invades the privacy of the aborted fetus. Second, the CMC disputes the bill's definition of pregnancy ("the human reproductive process, beginning with the implantation of an embryo") as "politically convenient, but ungrounded in scientific reality."

The CMC further argues that the bill's apparent restrictions on abortion of a viable fetus are meaningless, since they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant woman." The CMC asserts, "since there is no such thing as an absolutely risk-free childbirth, there is no such thing as an illegal abortion, as long as the abortionist is licensed."

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California ProLife Council also opposes the bill, stating "our most grave concern ... is the repeal of the requirement that only physicians may do abortions in California. Clear language to assure that only physicians and surgeons are authorized to do abortions in California is a minimum the women of California should expect."

Prior Related Legislation . SB 1360 (Sen. Health & Human Services Cmte.), Ch. 415, Stats. of 1995 (reorganized and renumbered sections of Health and Safety Code, including Therapeutic Abortion Act, formerly located at Sections 25950-25954 of the Code).

REGISTERED SUPPORT / OPPOSITION :

Support

American Academy of Pediatrics, CA District
American Association of University Women, California
American Association of University Women, San Jose Branch
American Association of University Women, Santa Cruz Branch
American Civil Liberties Union
American College of Obstetricians and Gynecologists, District IX
American Medical Women's Association
Board of Supervisors, County of Santa Cruz
California Abortion & Reproductive Rights Action League
California Church Impact
California Commission on the Status of Women
California Family Health Council
California Medical Association
California National Organization for Women
California Nurses Association
California Pro-Choice Republicans
California Women Lawyers
California Women's Law Center
California Women's and Children's Health Coalition
Democratic Women of Santa Barbara County
Democratic Women's Club, Pebble Beach
Hadassah
Lambda Letters Project
League of Women Voters of California
Medical Students for Choice, University of Southern California Chapter
National Council of Jewish Women

National Health Law Program
National Latina Alliance
National Organization for Women, Monterey Peninsula Chapter
National Women's Political Caucus of California
Older Women's League
People for the American Way
Planned Parenthood Affiliates of California
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood: Shasta-Diablo
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
San Louis Obispo Counties
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
Valley Women's Club
Voters for Choice
Women Lawyers Association of Los Angeles
Women's Programs, Monterey Peninsula College

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Workmen's Circle/Arbeter Ring (Southern California District)

Opposition

California ProLife Council
Committee on Moral Concerns
Capitol Resource Institute
Campaign for California Families
California Right to Life Committee

Analysis Prepared by : Drew Liebert / JUD. / (916) 319-2334

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Date of Hearing: June 25, 2002

ASSEMBLY COMMITTEE ON HEALTH
Helen Thomson, Chair
SB 1301 (Kuehl) – As Amended: April 8, 2002

POLICY QUESTIONS:

1) Should the Reproductive Privacy Act, which codifies judicial decisions handed down by the California State Supreme Court and the U.S. Supreme Court over the past 30 years related to abortion, be enacted?

2) Should references to the "Therapeutic Abortion Act" and specified provisions of that Act be repealed?

SENATE VOTE: 22-12

SUBJECT: Reproductive Privacy Act.

SUMMARY: Enacts the Reproductive Privacy Act which codifies the judicial decisions handed down by the California State Supreme Court and the U.S. Supreme Court over the past 30 years related to abortion. Repeals reference to the "Therapeutic Abortion Act" and various specified provisions of that Act. Specifically, this bill:

1) Enacts the Reproductive Privacy Act which does all of the following:

   a) Makes legislative findings that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

   b) States the public policy of the State of California to be that:

      i) Every individual has the fundamental right to choose or refuse birth control;

      ii) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specified; and

      iii) The state is prohibited from denying or interfering with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specified.

   c) Prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

   d) States that the performance of an abortion is unauthorized if either of the following is true:

      i) The person performing or assisting in performing the abortion is not a health care provider authorized to perform or assist in performing an abortion pursuant to

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provisions of #3), 4), and 5) below; or

ii) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable; and

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

e) Defines "abortion" to mean any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

f) Defines "pregnancy" to mean the human reproductive process, beginning with the implantation of an embryo.

g) Defines "State" to mean the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state.

h) Defines "viability" to mean the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

2) Makes failure to comply with the Reproductive Privacy Act, in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion, unprofessional conduct.

3) Subjects a person to penalties for the unlawful practice of medicine if he or she assists in performing a surgical abortion and does not have a valid, unrevoked, and unsuspended license or certificate that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion.

4) Subjects a person to penalties for the unlawful practice of medicine if he or she performs or assists in performing a nonsurgical abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon, or does not have another valid, unrevoked, and unsuspended license or certificate that authorizes him or her to perform or assist in performing the functions necessary for a nonsurgical abortion.

5) Defines "nonsurgical abortion" as including termination of pregnancy through the use of pharmacological agents.

6) Repeals the existing title "Therapeutic Abortion Act" and various specified provisions of that Act.

EXISTING LAW:

1) Authorizes, in statute, that a holder of a physician's and surgeon's certificate may perform an abortion only if it takes place in an accredited hospital and is approved by a committee with a

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specified number of physician members that finds that:

a) There is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother; or

b) The pregnancy resulted from rape or incest.

2) Provides, in statute, that the committee noted in 1) above shall not approve an abortion on the ground that the pregnancy resulted from rape or incest unless either the district attorney (DA) upon review of an affidavit from the applicant for the abortion, notifies the committee that probable cause exists to believe the pregnancy resulted from rape or incest, or the DA fails to respond to the committee.

3) Permits, in statute, the applicant for the abortion to petition the superior court for a hearing if the DA informs the committee that there is no probable cause to believe the pregnancy resulted from rape or incest. Requires the court to issue an order that the pregnancy resulted from rape or incest and the committee to approve the abortion if the court determines by a preponderance of evidence that the pregnancy resulted from rape or incest.

4) Has declared, in case law, that the provisions referenced in 1), 2) and 3) above regarding medical criteria and approval processes for obtaining an abortion are unconstitutional. (Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983) 462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.)

5) Provides, in statute, that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy.

6) Although published case law has not explicitly overruled #5) above, case law has explicitly held that the state may prohibit abortions only after viability of the fetus and must include exceptions related to the life and health of the mother. (See, e.g., 65 Ops. Atty. Gen. 261; and Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.))

7) Prohibits, in statute, performing an abortion, except in a medical emergency requiring immediate medical action, upon an unemancipated minor unless she first has given her written consent to the abortion and also has obtained the written consent of one of her parents or legal guardian or upon judgement of a court as specified. Makes it a misdemeanor for any person to knowingly perform an abortion on an unmarried or unemancipated minor without complying with the requirements of this provision.

8) Has declared, in case law, that requiring pregnant minors to secure parental consent or judicial authorization before obtaining abortions violates right the of privacy guaranteed by the California Constitution. (American Academy of Pediatrics v. Lungren (1997) 16 Cal 4th 307)

9) Requires DHS to establish a system for the reporting of abortions to determine their demographic effects and to assess legal and medical standards pertaining to abortion

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practices, and requires DHS to report its findings to the Legislature every two years.

10) Makes failure to comply with the Therapeutic Abortion Act, in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion, unprofessional conduct.

11) Subjects a person to criminal penalties for the unlicensed practice of medicine if he or she performs or assists at a surgical abortion and does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon, or does not have another valid certificate authorizing him or her to perform or assist at a surgical abortion.

FISCAL EFFECT: Unknown.

COMMENTS:

1) PURPOSE OF THIS BILL. According to the author, this bill, entitled the Reproductive Privacy Act, cleans up the cryptic and often unconstitutional abortion code and ensures that California has a constitutionally sound abortion law that will protect privacy rights, now and in the future. The author states that this bill is important because it does the following: deletes language in current state law that has been found unconstitutional in state and federal courts; allows health care providers, acting within their particular scopes of practice to perform or assist in the performance of surgical and non-surgical abortions so that abortion is treated like other comparable medical procedures; provides women greater access to early non-surgical abortion methods; and protects Californians' fundamental right to choose a safe and legal abortion, even if the Supreme Court further reduces the federal protections contained in Roe v. Wade. Although case law has rendered much of the Therapeutic Abortion Act obsolete, the Act itself has never been repealed by the Legislature. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems. The author believes the citizens of California deserve a reproductive privacy law that mirrors their respect for the Constitution and their desire for reproductive freedom. In that spirit, the Reproductive Privacy Act offers California a unique opportunity to once again take the lead in the national forum on the issues of reproductive choice.

2) BACKGROUND. The state's existing abortion law, called the Therapeutic Abortion Act, was signed by former Governor Ronald Reagan and took effect in 1967. This act provided for women's access to abortion services, but spelled out various conditions that had to be met before a woman could obtain an abortion. In the 1970's, a number of sections were added to the Therapeutic Abortion Act, primarily dealing with "conscience clause" issues and the treatment of fetal remains.

Judicial Decisions: In 1972, the California Supreme Court declared several provisions of the Therapeutic Abortion Act, including those requiring prior approval by a medical committee, and limiting approval to cases of rape, incest, or where the pregnancy threatened to "gravely impair" the physical or mental health of the mother, impermissibly vague and therefore unconstitutional. (People v. Barksdale , supra, 8 Cal. 3d at 333.) Other provisions facilitating these statutes, including those requiring the input of the DA, establishing the proper formation of the medical committee, and defining "mental illness" for the purposes of the Act, were declared invalid as well.

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practices, and requires DHS to report its findings to the Legislature every two years.

10) Makes failure to comply with the Therapeutic Abortion Act, in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion, unprofessional conduct.

11) Subjects a person to criminal penalties for the unlicensed practice of medicine if he or she performs or assists at a surgical abortion and does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon, or does not have another valid certificate authorizing him or her to perform or assist at a surgical abortion.

FISCAL EFFECT: Unknown.

COMMENTS:

1) PURPOSE OF THIS BILL. According to the author, this bill, entitled the Reproductive Privacy Act, cleans up the cryptic and often unconstitutional abortion code and ensures that California has a constitutionally sound abortion law that will protect privacy rights, now and in the future. The author states that this bill is important because it does the following: deletes language in current state law that has been found unconstitutional in state and federal courts; allows health care providers, acting within their particular scopes of practice to perform or assist in the performance of surgical and non-surgical abortions so that abortion is treated like other comparable medical procedures; provides women greater access to early non-surgical abortion methods; and protects Californians' fundamental right to choose a safe and legal abortion, even if the Supreme Court further reduces the federal protections contained in Roe v. Wade. Although case law has rendered much of the Therapeutic Abortion Act obsolete, the Act itself has never been repealed by the Legislature. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems. The author believes the citizens of California deserve a reproductive privacy law that mirrors their respect for the Constitution and their desire for reproductive freedom. In that spirit, the Reproductive Privacy Act offers California a unique opportunity to once again take the lead in the national forum on the issues of reproductive choice.

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The following year, the U.S. Supreme Court declared that a right of personal privacy exists under the Constitution, and that this right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." (Roe v. Wade , supra, 410 U.S. at 153.) An explicit right to privacy added to the California Constitution in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in Roe v. Wade. (Committee to Defend Reproductive Rights v. Myers (1981), 29 Cal. 3d 252, at 280.)

In 1997, the California Supreme Court invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion. (American Academy of Pediatrics v. Lungren (1997) 16 Cal. 4th 307, 314.)

Thus, since its inception in 1967, a number of state and federal court decisions have rendered various provisions of the state's Therapeutic Abortion Act wholly or partly invalid, and have left the validity of other provisions open to serious question. Despite their unconstitutionality, however, these provisions have remained largely unchanged in the state's Health and Safety Code, because the Legislature has never repealed or modified them in accordance with, or in response to, these court decisions. This bill addresses this confusing statutory situation by deleting the provisions of the Therapeutic Abortion Act that have been ruled unconstitutional, adding language consistent with court decisions, and renaming the act as the Reproductive Privacy Act.

Other Provisions Repealed by this Bill: In addition to the provisions found unconstitutional by the courts, this bill repeals two other provisions of the Therapeutic Abortion Act: that which gives the Act its name and that which requires DHS to collect abortion statistics for demographic purposes and report them to the Legislature.

Provisions of the Therapeutic Abortion Act Not Repealed by this Bill: A number of provisions of the Therapeutic Abortion Act are not addressed or affected by this bill, and will remain in force, as provisions of the Reproductive Privacy Act, if this bill is enacted. Those provisions include:

a) The "conscience clause" provisions, which protect health care professionals who decline to perform or assist in abortions from any discipline, penalty, lawsuit, or employment opportunity as a result of their refusal;

b) A provision prohibiting an individual's refusal to consent to an abortion or sterilization from being grounds for loss of any privileges or denial of public benefits;

c) A provision requiring a minor to obtain parental consent before obtaining an abortion;

d) A provision establishing that an infant prematurely born alive in the course of an abortion has the same right to medical treatment as other infants; and

e) Provisions governing research and study of fetal remains.

Consistency with Judicial Opinions
First Trimester: Under the parameters established in Roe v. Wade, the right of personal privacy outweighs any legitimate state interest in a woman's pregnancy until the end of the

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first trimester of that pregnancy. Thus, during the first trimester, except to protect the health of the mother, the state may not interfere with a woman's right to chose an abortion. This bill explicitly extends that protection to non-surgical abortions by allowing appropriately licensed or certified health care professionals to perform or assist in performing nonsurgical abortions, which will permit the administration of approved early-abortion facilitating drugs such as RU-486.

After the first trimester, a state may regulate abortion in ways "reasonably related" to protecting maternal health, and at the point the fetus becomes viable, the state may regulate and/or prohibit abortions in the interest of protecting the "potentiality of human life" of the viable fetus, except where abortion is necessary to preserve the life or health of the mother. This bill explicitly prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

Regulations Related To Maternal Health: This bill also continues to require abortions to be performed by appropriately licensed health care professionals; subjects those who do not comply with the Reproductive Privacy Act to professional discipline; and subjects unlicensed abortion providers to criminal sanctions, in conformity with current law.

Regulations Relating To Preserving Life Of Viable Fetus: In conformity with Roe v. Wade, this bill also prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

3) SUPPORT. Supporters of this bill express concerns about the potential erosion of abortion rights in California and the urgent need to ensure continuing and reasonable access to abortion services. The California Commission on the Status of Women supports this bill as "a contemporary law" to govern abortion in California, adding, "this measure is necessary to ensure that California women's right to reproductive freedom is protected by a constitutionally sound abortion law." Other supporters state that this bill ensures that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. Supporters note that with the advent and approval of RU 486, women have other options besides surgery to end an unwanted pregnancy. This bill increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortions pursuant to their current scope of practice.

4) OPPOSITION. Opponents to this bill state that destroying innocent human life for convenience is wrong and should not be seen as a celebration of 'privacy' or anything else. Although some opponents concede that the bill will bring California abortion law into conformance with Roe v. Wade , they assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision. California Right to Life, in opposition, states that this bill would result in effectively installing an expanded state version of the federal Roe vs. Wade Supreme Court decision. Opponents also write that babies have the fundamental right to expect that once conceived, they have the right to expect that their mothers will protect them and allow them to live.

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5) PREVIOUS LEGISLATION. SB 1360 (Sen. Health & Human Services Committee), Chapter 415, Statutes of 1995 reorganized and renumbered sections of the Health and Safety Code, including the Therapeutic Abortion Act, formerly located in Sections 25950-25954 of the Health and Safety Code.

   a) QUESTIONS AND COMMENTS. California's existing laws regarding abortion reflect the state of the law in 1967 before the California State Supreme Court and the US Supreme Court handed down a number of key decisions, including the seminal Roe v. Wade case, that protect a pregnant woman's right to choose an abortion under specified circumstances. This bill amends California's statutory law primarily to reflect governing federal and state case law. As the analysis details, all but two of the existing provisions under the Therapeutic Abortion Act that have not been overruled by judicial decisions remain in place.

6) SECOND COMMITTEE OF REFERENCE. This bill was previously heard in Assembly Judiciary Committee, and was approved on an 8-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Planned Parenthood Affiliates of California (Sponsor)
Honorable Cruz Bustamante, California Lt. Governor (Co-sponsor)
American Academy of Pediatrics, CA District
American Association of University Women, California
American Association of University Women, San Jose Branch
American Association of University Women, Santa Cruz Branch
American Civil Liberties Union
American Civil Liberties Union, Santa Cruz Chapter
American College of Obstetricians and Gynecologists, District IX
American Medical Women's Association
California Abortion & Reproductive Rights Action League
California Church Impact
California Commission on the Status of Women
California Family Health Council
California Medical Association
California National Organization for Women
California Nurses Association
California Primary Care Association
California Pro-Choice Republicans
California Women Lawyers
California Women's Law Center
California Women's and Children's Health Coalition
Central Coast Alliance for Health
Choice USA, UC Santa Cruz Chapter
City & County of San Francisco Commission on the Status of Women
CommuniCare Health Centers
County of Santa Cruz Board of Supervisors
Democratic Activists for Women Now

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Democratic Central Committee of Santa Cruz County
Democratic Women of Santa Barbara County
Democratic Women's Club, Pebble Beach
Gray Panthers of California
Green Party, Monterey County
Hadassah
Kaiser Permanente Medical Care Program
Lambda Letters Project
Lawyer's Club of San Diego
League of Women Voters of California
League of Women Voters, Monterey Peninsula
League of Women Voters, Santa Cruz County
Los Angeles County Young Democrats
Marin County Women's Commission
Medical Students for Choice, University of Southern California Chapter
Monterey Peninsula College, Women's Programs
National Council of Jewish Women
National Health Law Program
National Latina Alliance
National Organization for Women, California Chapter
National Organization for Women, Monterey Peninsula Chapter
National Organization for Women, San Jose/South Bay Chapter
National Women's Political Caucus of California
Older Women's League of California
People for the American Way
Peoples Democratic Club of Santa Cruz
Physicians for Reproductive Choice and Health
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood: Shasta-Diablo
Pro Choice Coalition of Santa Clara County
Religious Coalition for Reproductive Choice
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
San Luis Obispo County Pro-Choice Coalition
Santa Clara County Democratic Central Committee
Santa Cruz County Women's Commission
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
To Help Everyone Clinic, Inc. (T.H.E. Clinic)
United Nations Association of Santa Cruz County
Valley Women's Club
Ventura County Reproductive Rights Network
Voters for Choice

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West Hollywood Democratic Club
Women Lawyers Association of Los Angeles
Women Lawyers of Santa Cruz County
Women's Programs, Monterey Peninsula College
Women's Foundation
Women's Health Collaborative
Women's Health Specialists
Women's International League for Peach and Freedom, Fresno Branch
Women's International League for Peach and Freedom, Monterey County
Women's Lifecycle Medical Group
Workmen's Circle/Arbeter Ring, Southern California District
Zero Population Growth of Monterey Bay
27th Assembly District Democratic Committee
Numerous individuals

Opposition

California Catholic Conference
California ProLife Council
Campaign for California Families
Capitol Resource Institute
Committee on Moral Concerns
Hispanics for Life and Human Rights
San Mateo Pro Life

Analysis Prepared by: John Gilman / HEALTH / (916) 319-2097

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June 7, 2002

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ASSEMBLY COMMITTEE ON JUDICIARY
Capitol Building, Room 4126
Sacramento, CA 95814
Fax 916-319-2118

Helen Thomson, Chair
ASSEMBLY COMMITTEE ON HEALTH
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Sacramento, CA 95814
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RE : Comments on SB1301: Reproductive Privacy Legislation

Dear Gentlepersons:

This serves as a brief analysis of SB1301. This particular bill is not pragmatically sound and would be detrimental to the health and safety of California's women. Planned Parenthood, as an example, is already allowing unlicensed personnel to practice medicine without a medical license. Indeed, some of their personnel have no licenses, whatsoever, and only a few months of training, before they are allowed to "assist" in abortion procedures. This is simply unconscionable and presents a danger to the health and safety of thousands of women in San Diego alone.

While it might be easy for someone to say that this is mere rhetoric, the facts speak for themselves. I have enclosed the sworn deposition testimony of two Planned Parenthood employees who, under oath, admit that they do not have licenses, but have assisted in the performance of "hundreds" of abortions in the last three years. One can see from their sworn testimony that neither employee had *any* specific training in abortion procedures. In fact, one of the employees is not even familiar with the basic terminology used in a 'therapeutic abortion' setting. SB1301 would greatly relax restrictions on who can participate/assist in the performance of "therapeutic abortions." Existing law already states that licensed physicians are the only personnel who may "assist" in an abortion. *California Health & Safety Code* § 123405.

SB1301 places a stamp of approval on the type of conduct that is testified to in the attached exhibits. The testimony is undeniable and under sworn oath. It would be incredibly irresponsible for the State of California to relax restriction on the provision of qualified and licensed personnel to California's women. It is trusted that you will responsibly vote on SB 1301 after reading the attached testimony.

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Most respectfully Submitted:

UNITED STATES JUSTICE FOUNDATION

RICHARD D. ACKERMAN,
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CC : Assembly Member Vargas
Fax (619) 409-9270

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EXHIBIT 1

CONDENSED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES,	)	
Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive,	)	
Defendants.	)	

DEPOSITION OF MARIE WILKERSON

TAKEN ON

WEDNESDAY, NOVEMBER 14, 2001

Reporter: Cheryl M. Boley
CSR No. 9512

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understand to make sure that your testimony accurately reflects the question I presented. Do you understand that?
A **Yes.**
Q It's important that only one person speak at a time. I don't think we'll have any problems here, but if we do, I'll just point it out, say we need to stop doing that. Because as I mentioned, when it reads like a play, if we're interrupting each other, when it's typed out the typeset is all interrupted and you can't read the question from the answer and it's difficult, so I'm going to ask you to try and wait until I'm done with my question. And it's also important to do that because sometimes the whole meaning of the question can change on the last word phrased. Okay?
A **Yes.**
Q Is there any reason you can think of today that would prevent you from giving your full and complete testimony such as medication, illness, anything like that?
A **No.**
Q What's your date of birth, ma'am?
A **5/12/67.**
Q Have you seen medical providers of any sort for the damages you're claiming in this case?

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A **No.**
Q Have you seen any counselors of any sort for the damages you're seeking in this case?
A **No.**
Q Have you ever had your deposition taken before?
A **No.**
Q Did you bring any documents here today with you to the deposition?
A **No.**
Q Off the record.
(Off the record)
BY MR. WATKINS:
Q Do you maintain a diary?
A **No, I do not.**
Q Do you maintain a journal of any sort like that where you make regular entries?
A **On occasion.**
Q Did you make any entries with respect to the incidents that are at issue here?
A **I just made a statement on what occurred that day.**
Q Was that at the request of your attorney?
A **No.**
Q Who did you make a statement for?
A **For my manager.**

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Q Who's that?
A **Mindy Moore.**
Q And when was that statement made?
MR. McELROY: That question is perfectly appropriate, but I think the response to the previous question, it was in response to an attorney's request which was made through her manager. It was made from my office to her manager, so she may not be aware of that. But you can certainly ask when it was made.
THE WITNESS: The morning of Saturday, February 27th.
BY MR. WATKINS:
Q Did you review any documents in preparation for your deposition such as a declaration or this statement?
A **Yes.**
Q Did you review this statement in preparation for your deposition?
A **The declaration I reviewed today.**
Q So you reviewed a declaration that you signed earlier in preparation for your deposition?
A **Yes.**
Q Did you review these notes that you made for Mindy Moore in preparation for your deposition?
A **No.**
Q When was the last time you saw those notes?

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A **The morning of February 27th.**
Q I presume they were handwritten notes?
A **Yes.**
Q And Ms. Moore requested that you make that statement?
A **Yes.**
Q Other than that written statement to Ms. Moore, did you maintain any notes in a computer on a Palm Pilot or any other type of notation regarding this incident?
A **No.**
MR. WATKINS: Is there a loss of earnings claim at all related to this?
MR. McELROY: No.
BY MR. WATKINS:
Q And do you agree with that? You didn't lose any money from work as a result of this, did you?
A **No, I didn't.**
Q And are you currently employed at Planned Parenthood?
A **Yes, I am.**
Q How long have you been there?
A **Since October of 1997.**
Q What are your job responsibilities there today?
A **I'm a medical receptionist.**
Q Have you held that same position since October

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'97?
A No. I had a previous job title. I was previously a surgical assistant.
Q When did you start as a medical receptionist?
A Just July of this year, late July.
Q July of 2001?
A Yes.
Q So from October '97 through July of 2001, you were a surgical assistant?
A Yes.
Q Do you have medical training related to being a surgical assistant?
A I have a certificate in medical assisting.
Q Where is that certificate from?
A Concord Courier Institute.
Q How long is that course?
A Eight months.
Q What are the things that you studied there at Concord Courier Institute?
A How to draw blood, take vital signs, counsel patients.
Q What type of patients?
A Like pregnancy counseling.
Q What else did you study there?
A X-rays.

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Q What did you do with x-rays? Taking x-rays? Reviewing x-rays?
A Taking x-rays.
Q Anything else?
A And assist in minor surgeries.
Q What kind of surgeries? Was there a specific group or specific type?
A Lacerations. Nothing in particular, it was like a family planning.
Q Did Concord Courier Institute have a curriculum set around family planning?
A Mostly family planning, yes.
Q Do you have a high school diploma?
A Yes.
Q When did you receive that?
A 19 June of 1984.
Q And when did you go to Concord Courier?
A October of 1990.
Q Through what, June of '91?
A June of '91.
Q Between 1984 and 1990, did you obtain any other education?
A I went to college for one year.
Q College of Whittier?
A Late '84, for one year.

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Q What did you study at College of Whittier?
A Medical assisting.
Q Was it the same types of things you studied at Concord Courier?
A It was mostly medical terminology.
Q Did you study anatomy?
A Yes.
Q Did you study anatomy at Concord Courier?
A No.
Q And after College of Whittier, approximately 1985, what did you do with respect to either work or education?
A Can you repeat that question?
Q Sure. After leaving College of Whittier, what did you do as far as working or going to school?
A I was a homemaker.
Q And how long did you do that before you went back to work?
A From late '85 until June, until I started school, I was a homemaker.
Q Before you started at Concord Courier?
A Yeah.
Q Did you have any employment during that time?
A I started my first job after graduating Concord with Point Loma Medical Group.

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Q During the time that you were a homemaker, did you have any other employment?
A No.
Q And upon graduating from Concord Courier, you went to work for Point Loma Medical Group?
A Yes.
Q What was your job there?
A Medical assistant.
Q What were your responsibilities as a medical assistant there?
A Assisting doctors with patients doing first trimester abortions.
Q So you actually assisted in the procedure itself?
A Yes.
Q How long were you a medical assistant at Point Loma Medical Group?
A About three and a half years.
Q And during that entire time were you a medical assistant with first trimester abortions?
A Yes.
Q Were you involved in assisting any other types of abortions while you were at Point Loma Medical Group?
A No.
Q And as far as your memory then, while you were at Point Loma Medical Group, did you ever assist in a

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medically necessary late term abortion?
A No.
Q And where did you go to work after Point Loma?
A I stayed home with my children.
Q When did you start doing that as far as month and year? We're probably looking at what, 1990 or so? No, I missed that. Hold on. '95?
A I stayed home until about late -- no, early '96, and then I started volunteering at Planned Parenthood before I got hired as an employee.
Q When did you start volunteering?
A June of '97.
Q And what were you doing when you volunteered at Planned Parenthood?
A I volunteered in the human resource department.
Q And which Planned Parenthood facility was that?
A Mission Valley.
Q Have you been at Mission Valley Planned Parenthood since June of 1997?
A Yes.
Q How long were you an HR volunteer?
A Until October of '97 when I got hired as a full-time employee.
Q That's when you went to work as the surgical assistant?

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A Yes.
Q Why did you change from a surgical assistant to medical receptionist?
A They had to downsize the department, so I was transferred to a different location.
Q At the time of February 27, '99, were you a medical assistant -- or excuse me -- a surgical assistant?
A Yes.
Q Were you involved in counseling at all as a medical receptionist?
A No.
Q Have you done any counseling at Planned Parenthood?
A Yes.
Q Was that counseling part of the surgical assistant responsibilities?
A Yes.
Q And what else were the responsibilities of the surgical assistants at the time you were doing that?
A Assisting with the doctors during procedures.
Q What type of procedures?
A Abortion.
Q First term?
A First term and second term.

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Q Any late term, third term medically necessary abortions that you assisted in?
A On occasions.
Q And can you give me an approximate number?
A Since I've been there or --
Q Yes.
A 10 plus.
Q I'm sorry?
A More than 10.
Q More than 20?
A Maybe 15.
Q I understand that you don't have a perfect memory or perfect database to go to for this information, so we do deal with approximates a lot. And if you're uncomfortable giving me an approximate, let me know, but otherwise it's okay to do that. Do you understand that?
A Yes.
Q What we don't want you to do is guess and give me some answer that you have no basis for. Do you understand that?
A Yes.
Q Have you ever assisted in a procedure known as partial birth abortion?
A No.
Q Have you ever witnessed one?

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A No.
Q So you assisted in counseling the patients and assisted in procedures of the surgical assistant. What other responsibilities did you have?
A Basically making the patients comfortable during their visit.
Q So patient care?
A Yes.
Q Post-procedure?
A Yes.
Q And would you typically be involved with the patient in counseling -- strike that.
Does it work like where a patient comes in and you're assigned to the patient to provide counseling and then to assist in the procedure and be involved all the way from start to finish? Do you handle different segments just depending on patient flow?
A Different segments.
Q And in the counseling that you referenced, is that something that's done pre-procedure?
A Yes.
Q Have you ever been -- strike that.
You worked on February 27th 1999, correct?
A Yes.
Q And you were working as a surgical assistant

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Q Okay. And what did you tell her in response, if anything?
A I just told her to turn her head and look the other way.
Q You had indicated before that you had participated as an assistant in first, second, and third term abortions; is that correct?
A Yes.
Q In your capacity as a surgical assistant during first term abortions, would you have anything to do with holding -- what is it -- the cannula?
A No.
Q Would that be primarily the doctor's responsibility to control the cannula?
A Yes.
Q Did you have anything to do with turning on or off the vacuum aspirator?
A On occasions.
Q And is the tubing on the vacuum aspirator translucent? Can you see through the tubing?
A No.
Q Do you know that uterine contents are flowing up once the vacuum aspirator is turned on and the abortion begins?
A Yes.

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Q And you know that includes some human byproducts and products of conception, right?
A Yes.
Q And has that always been your understanding since you attended Concord?
A Yes.
Q You also indicated that -- and can you give me an estimate as to the number of first term abortions you've assisted in?
A Since working at Planned Parenthood or --
Q Well, since you graduated from Concord.
A Just a lot.
Q And you had also indicated that you participated in second term abortions; is that correct?
A Yes.
Q And often, aside from the vacuum aspirator, there's other methods in performing abortion including dilation and evacuation?
A Yes.
Q Have you ever participated in dilation and evacuation?
A Yes.
Q And does that involve the removal of products of conception from the woman's body?
A Yes.

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Q And typically is there some bleeding involved in that?
A Yes.
Q Okay. And how many of those procedures have you participated in?
A A lot.
Q Hundreds?
A Since being a medical --
Q Uh-huh.
A Yes.
Q And based on your counseling experience with Planned Parenthood and having trained with Planned Parenthood, is that typically a distressful time for the woman involved?
A Yes.
Q And part of your job -- to deal with high emotions is part and parcel of your job duties; is that true?
A Yes.
Q And do you consider yourself to be pretty good at dealing with these high emotions?
A Yes.
Q And did it take a while to get used to or is it something you think you were sort of called to do?
A It took a while.

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Q Would you say that in some sense you're desensitized to the high emotions of the women involved in the abortion decision?
A Yes.
Q Now have you ever participated in the saline abortion?
A No.
Q But you do know that that's something that's been performed in the past as an option to dilation and evacuation; is that correct?
A Yes.
Q Were you given any training at Concord in saline abortion procedures?
A No.
Q Do you have any understanding as to how those are performed?
MR. McELROY: Objection; not reasonably calculated.
MR. ACKERMAN: It goes to the injury.
MR. McELROY: She's never been trained in them.
BY MR. ACKERMAN:
Q Have you ever seen pictures of saline abortions?
MR. McELROY: This is not reasonably calculated.
MR. ACKERMAN: Yes, it is.
MR. McELROY: It's not reasonably calculated to

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lead to the discovery of admissible evidence, and I'm going to instruct her not to answer the question.
MR. ACKERMAN: Okay.
BY MR. ACKERMAN:
Q. Have you ever participated in any other type of second term abortion aside from dilation and evacuation, maybe a vacuum aspiration at the beginning of the second term?
Obviously you said you hadn't participated in the saline abortion. Have you operated in other types of procedures that take place during the second term?
A No.
Q Now you had indicated that you had, in fact, participated in a third term medically necessary abortion; is that correct?
A Yes.
Q And were you in the operating room right next to the patient?
A Yes.
Q Is it not true that that procedure cannot be performed by vacuum aspiration?
A Yes.
Q And is it not always true that the ordinary method for performing a third term abortion would be dilation and evacuation?

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A Yes.
* Q And also, I would assume that you understand, from a medical perspective, that in a third term abortion the fetus can be viable if the umbilical cord is cut, correct?
MR. McELROY: Objection; this is not reasonably calculated. I'm going to instruct her not to answer the question.
BY MR. ACKERMAN:
Q You had indicated that one of the things that upset you was the pictures that my client had showed you.
Is it your testimony that those are inaccurate depictions of fetuses?
A Yes.
Q Those are inaccurate?
A Yes.
Q Okay. What's inaccurate about them?
A The fetuses don't always look like the ones that are shown on the picture.
Q Do they sometimes?
A Yes, on occasions.
Q So you've seen fetuses from actual procedures that looked like that?
A Yes.
Q Was that distressing to you the first time you

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saw that in an operating room?
A No.
Q Was it the fact that my client was holding the picture that made it more upsetting to you?
A Yes.
Q So if a doctor were holding the fetus, that wouldn't upset you?
A No.
Q Have you ever been asked to arrange for the disposal of human remains following a third term abortion?
A No.
* Q Is it your opinion that my clients don't have a right to complain about these procedures?
MR. McELROY: Objection; it's not reasonably calculated, and I'm instructing her not to answer the question.
MR. ACKERMAN: You don't think it goes toward attitude toward the action of my clients?
MR. McELROY: I don't know what attitude toward the action --
MR. ACKERMAN: You want me to pull out the Evidence Code?
MR. McELROY: You need to let me finish my sentence because we're on the record.

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MR. ACKERMAN: Finish your sentence.
MR. McELROY: I don't know what attitude toward the action has got to do with anything.
MR. ACKERMAN: Would you mind, do you have a copy of the Evidence Code? Do you want to entertain me?
MR. WATKINS: Just mark it and move on. He's not going to change his opinion.
MR. McELROY: I'm not going to debate it with you.
MR. ACKERMAN: We'll debate it in court. That's fine.
BY MR. ACKERMAN:
Q Are you a licensed phlebotomist?
A I have a certificate.
Q Do you have any licenses issued by the Board of Consumer Affairs of the State of California?
A No.
Q Okay.
Have you ever drawn blood in your capacity as a medical assistant at the Planned Parenthood facility?
A Yes.
Q Do you know how many other employees were present at Planned Parenthood on February 27th of '99?
A Between 10 and 12.
Q Do you know of any other lawsuits brought by

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06/07/2002 FRI 16:34 [TX/RX NO 8[illegible]

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EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive, Defendants.	)	

DEPOSITION OF AVECITA MUCINO, taken by the Defendants, at 625 Broadway, Suite 1400, San Diego, California, commencing at 4:41 p.m., Wednesday, November 14, 2001, before CHERYL M. BOLEY, CSR No. 9512, pursuant to Notice.

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Page 3

APPEARANCES:
For the Plaintiff's:
LAW OFFICES OF JAMES E. McELROY
BY: JAMES E. McELROY
SHANNON NUGENT
625 Broadway, Suite 1400
San Diego, California 92101
(619) 232-6686

For the Defendant Kenneth Tyler Scott:
HELMUS & WATKINS, LLP
BY: DANIEL R. WATKINS
1912 North Broadway, Suite 205
Santa Ana, California 92706
(714) 835-2211

For the Defendant Ronald D. Brock:
UNITED STATES JUSTICE FOUNDATION
BY: RICHARD D. ACKERMAN
2091 East Valley Parkway, Suite 1-C
Escondido, California 92027
(760) 741-8086

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WITNESS:
AVECITA MUCINO

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* QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER

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EXHIBITS

DEFENDANTS'	DESCRIPTION	MARKED
(None)		

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SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 14, 2001
AT 4:41 P.M.
---o0o---

AVECITA MUCINO,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. WATKINS:
Q Can you please state your name and spell your full name for the record.
A My name?
Q Please.
A Avecita Mucino.
Q Will you spell that, please.
A A-V-E-C-I-T-A, M-U-C-I-N-O.
Q Do you have a middle name?
A No, I don't.
Q Ms. Mucino, as I mentioned earlier, my name is Dan Watkins, and I represent Ken Scott and we're going to ask you questions very much like we did with Ms. Wilkerson. And I won't go over all the admonitions, but I want to remind you that you are under oath, just like you would be under oath in a court of law. Do you

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understand that?
A Yes.
Q And please make sure you understand my question so that there's no confusion between the two of us and what we're talking about.
If there's any ambiguity in your mind, point it out and I'll restate the question in a different way. Do you understand that?
A Yes.
Q What's your date of birth, ma'am?
A 12/5/62.
Q I'm sorry?
A 12/5/62.
Q Have you ever had your deposition taken before?
A No.
Q Are you employed?
A Yes.
Q How so? Who are you employed by?
A Planned Parenthood.
Q How long have you been with Planned Parenthood?
A Three years.
Q So when did you start? I should have asked that.
A October '98.
Q Before we go into your work at Planned

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Parenthood, do you have a high school diploma?
A **No. I have a GED.**
Q When did you accomplish that?
A **1985.**
Q Other than the GED, do you have any other education?
A **Medical assistant.**
Q So you went to a medical assistant's course?
A **Yes.**
Q Where was that?
A **Los Angeles, California.**
Q The name of the school?
A **Bryman School.**
Q Can you spell that?
A **B-R-Y-M-A-N.**
Q Thank you.
And what was the -- what did you study there as a medical assistant?
A **Patient care and vital signs and lab.**
Q I'm sorry?
A **Lab. Laboratory.**
Q Oh, lab work?
A **Uh-huh, lab work. And phlebotomist.**
Q Is Bryman a school that's designed to provide medical assistant education for family planning?

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A **No.**
Q It's general medical assisting?
A **General.**
Q Did you learn any surgical procedures there, how to assist in surgical procedures at Bryman?
A **No surgical. Well, yes, surgical procedure like assisting a doctor in any surgical procedure, not a certain procedure.**
Q Just general surgical procedures?
A **Right.**
Q Did you study anatomy?
A **Only what is involved in the course, no more.**
Q Well, did you have a course on anatomy?
A **No, not that specific, just anatomy.**
Q What?
A **But -- well, of course, because the course involves anatomy.**
Q So in relationship to the different subjects that you studied, you studied anatomy as it applied to, for example, your surgical procedures?
A **Right.**
Q So it was kind of part and parcel to the other courses that you were studying?
A **Yes.**
Q And when did you complete your coursework at Bryman?

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A **'87, '88.**
Q Do you have any other educational experiences other than Bryman?
A **No.**
Q And how have you been employed since completing Bryman? What was your first job after that?
A **Family Planning Associates Medical Group.**
Q Oh, Associates Medical Group?
A **Uh-huh.**
Q Is that a "yes"?
A **Yes.**
Q And were you a medical assistant there?
A **Yes.**
Q What were your job responsibilities?
A **Taking vital signs and lab work.**
Q Did you do counseling?
A **No.**
Q Did you assist in any procedures?
A **Yes.**
Q Did you assist in first term abortions?
A **Yes.**
Q Did you assist in second term abortions?
A **No.**
Q How about did you ever assist in a medically necessary third term abortion?
A **No.**
Q Have you ever assisted in a partial birth abortion?
A **Can you explain that?**
Q If you don't understand the term, then you don't have to answer the question. Do you know what a partial birth abortion is?
A **No.**
Q Have you ever heard that term?
A **No.**
Q Approximately how many times did you assist in first term abortions at Family Planning Associates Medical Group?
A **A lot of times.**
Q I'm sorry?
A **A lot of times, I can't --**
Q More than 100?
A **Yes.**
Q More than 500?
A **I don't know.**
Q Hundreds?
A **Yes.**
Q I'll let Mr. Ackerman question you on the different types of procedures. I'm not familiar with

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those.
How long were you with Family Planning Associates Medical Group?
A From '89 to -- 1989 to '97.
Q Excuse me. 1989 through 1997?
A No, 1989 --
Q Right.
A -- to 1997.
Q So about eight years?
A Yes.
Q Were you a medical assistant the entire time?
A Yes.
Q And during that eight-year period you did not do any counseling?
A No.
Q And after leaving Family Planning Associates, is that when you went to Planned Parenthood?
A Yes.
Q Did you work anywhere else in between the two?
A No.
Q And what were your job responsibilities when you started at Planned Parenthood?
A Surgical services assistant.
Q And what were your responsibilities as a surgical services assistant?

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A Counseling patients, assisting the doctor in the procedures.
Q Post-procedure care as well?
A No.
Q And have you counseled hundreds of different patients?
A Yes.
Q Have you -- again, the counseling that you're providing, is that before the procedure?
A Yes.
Q The procedures that you've assisted with Planned Parenthood, do these include first term abortions?
A Yes.
Q Second term abortions?
A Yes.
Q And third term abortions? Have you assisted in any of those?
A What do you mean by third?
Q An abortion that occurs in the third trimester for medical reasons or otherwise.
A No.
MR. ACKERMAN: Can we go off the record?
(Off the record)
BY MR. WATKINS:
Q Approximately how many first term abortions have you assisted with at Planned Parenthood?
A I don't know.
Q Hundreds?
A Yes.
Q Would it be more than 100?
A Maybe, yes.
Q Well, don't guess, and don't give me an answer just because you think I want it. I'm just trying to get an estimate from you. If it's not 100, it's not --
A More than 100.
Q How about second term abortions? How many of those?
A About the same.
Q And are you still a surgical services assistant?
A Yes.
Q I'm looking at at least one declaration that you've signed in this case dated March 11, 1999, and it makes reference to an incident on February 27, 1999.
Do you have memory of something occurring on February 27, '99, an incident?
A Yes.
Q Are there any other incidents that you're complaining of as part of this lawsuit aside of what happened on February 27, 1999?
A No.

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Q And are you -- prior to February 27, 1999, did you ever work on a Saturday at Mission Valley Planned Parenthood?
A Yes.
Q And did you work on Saturdays as part of that rotation that we discussed with Ms. Wilkerson, just it would come up maybe two times a month you'd work on Saturdays?
A No. Two shifts, either you work Monday through Friday or Tuesday through Saturday. So I was on the Tuesday through Saturday schedule.
Q And did you work every Saturday then?
A Yes.
Q Do you continue to work every Saturday?
A No.
Q So initially when you were employed at Planned Parenthood, you were working every Saturday, Tuesday through Saturday?
A Yes.
Q When did that change?
A About a year and a half ago.
Q Why did that change?
A Because of my needs of my family. I needed to have Saturday off to spend more time with my family.
Q I don't want to get into your private life.

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Alfonso Jesus
1115 Pembroke Way , Dixon, CA 95620

August 19, 2002

Assembly Member Helen Thomson
State Capitol, Room 6005
PO Box 942849
Sacramento, CA 94249-0001

Subject: Support the Right to Privacy -- Pass SB 1301

Dear Assembly Member Helen Thomson:

I am writing as your constituent to ask that you please vote YES on SB 1301 when it comes before the Assembly soon.

This bill would protect a woman's right to privacy in making choices that concern her own body, and ensure that abortion remains a legal and safe option should she choose it.

The Supreme Court of the United States rightly guaranteed the right to choose as a matter of privacy in 1973, but now it seems that changes in the political composition of the court may endanger that right.

Please ensure that the rights of California women do not fall victim to the whims of Washington politics. Please support SB 1301.

Sincerely,

Alfonso Jesus

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Providing responsible choices through advocacy and political action.

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HEALTH COMMITTEE

June 27, 2002

The Honorable Helen Thomson, Chair
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

RE: SB 1301 (Kuehl)

Dear Assembly Member Thomson:

Planned Parenthood Affiliates of California (PPAC) would like to extend our gratitude for your AYE vote on SB 1301 (Kuehl).

Your support of reproductive rights in California is crucial in ensuring that all women have the freedom to make important decisions for their health.

Thank you for your continued support of reproductive rights.

Sincerely,

Sue Dunlap
Vice President of Public Policy

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

555 Capitol Mall, Suite 510 • Sacramento, California 95814-4581 • Phone (916) 446-5247 • Fax (916) 441-0632 • www.ppacca.org

California Primary Care Association
CPCA
Health Care Access for All

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HEALTH COMMITTEE

June 19, 2002

The Honorable Helen Thomson, Chair
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

RE: SB 1301 (Kuehl) - Support

Dear Assembly Member Thomson:

The California Primary Care Association (CPCA) is a health policy and advocacy organization representing a network of over 500 non-profit, community-based clinics that provide care to all Californians without regard to their ability to pay. CPCA supports SB 1301 (Kuehl), which will be heard in Assembly Judiciary Committee on Tuesday, June 25th.

SB 1301 will provide greater access to early abortion methods like mifepristone (RU-486) by eliminating barriers that currently impede the ability of licensed health care professionals in our clinics to treat patients in the area of reproductive health. This bill treats abortion like other comparable medical procedures and allows healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

In clinic settings, midlevel practioners play an increasingly important role in providing reproductive health care services. The clinic model integrates a team approach - which relies more heavily on midlevels (such as nurse practioners) to assist physicians in providing services. This bill is complimentary to the clinic model in that it acknowledges the need for midlevel practitioners to be included in the delivery of this procedure.

We urge your support of SB 1301.

Sincerely,

Melanie Moreno

Melanie Moreno
Policy Analyst

cc: The Honorable Sheila Kuehl
Members of Assembly Health Committee

Carmela Castellano, Esq., Chief Executive Officer
1215 K Street, Suite 700 • Sacramento, CA 95814 • 916/440-8170 • 916/440-8172 (fax) • www.cpca.org

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United States Justice Foundation

June 7, 2002

Ellen M. Corbett, Chair
ASSEMBLY COMMITTEE ON JUDICIARY
Capitol Building, Room 4126
Sacramento, CA 95814
Fax 916-319-2118

Helen Thomson, Chair
ASSEMBLY COMMITTEE ON HEALTH
Capitol Building, Room 6005
Sacramento, CA 95814
Fax 916-319-2108

RE : Comments on SB1301: Reproductive Privacy Legislation

Dear Gentlepersons:

This serves as a brief analysis of SB1301. This particular bill is not pragmatically sound and would be detrimental to the health and safety of California's women. Planned Parenthood, as an example, is already allowing unlicensed personnel to practice medicine without a medical license. Indeed, some of their personnel have no licenses, whatsoever, and only a few months of training, before they are allowed to "assist" in abortion procedures. This is simply unconscionable and presents a danger to the health and safety of thousands of women in San Diego alone.

While it might be easy for someone to say that this is mere rhetoric, the facts speak for themselves. I have enclosed the sworn deposition testimony of two Planned Parenthood employees who, under oath, admit that they do not have licenses, but have assisted in the performance of "hundreds" of abortions in the last three years. One can see from their sworn testimony that neither employee had *any* specific training in abortion procedures. In fact, one of the employees is not even familiar with the basic terminology used in a 'therapeutic abortion' setting. SB1301 would greatly relax restrictions on who can participate/assist in the performance of "therapeutic abortions." Existing law already states that licensed physicians are the only personnel who may "assist" in an abortion. *California Health & Safety Code* § 123405.

SB1301 places a stamp of approval on the type of conduct that is testified to in the attached exhibits. The testimony is undeniable and under sworn oath. It would be incredibly irresponsible for the State of California to relax restriction on the provision of qualified and licensed personnel to California's women. It is trusted that you will responsibly vote on SB 1301 after reading the attached testimony.

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Most respectfully Submitted:

UNITED STATES JUSTICE FOUNDATION

RICHARD D. ACKERMAN,
Attorney at Law.

CC : Assembly Member Vargas
Fax (619) 409-9270

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EXHIBIT 1

CONDENSED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES,	)	
Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive,	)	
Defendants.	)	

DEPOSITION OF MARIE WILKERSON

TAKEN ON

WEDNESDAY, NOVEMBER 14, 2001

Reporter: Cheryl M. Boley
CSR No. 9512

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understand to make sure that your testimony accurately reflects the question I presented. Do you understand that?
A Yes.
Q It's important that only one person speak at a time. I don't think we'll have any problems here, but if we do, I'll just point it out, say we need to stop doing that. Because as I mentioned, when it reads like a play, if we're interrupting each other, when it's typed out the typeset is all interrupted and you can't read the question from the answer and it's difficult, so I'm going to ask you to try and wait until I'm done with my question. And it's also important to do that because sometimes the whole meaning of the question can change on the last word phrased. Okay?
A Yes.
Q Is there any reason you can think of today that would prevent you from giving your full and complete testimony such as medication, illness, anything like that?
A No.
Q What's your date of birth, ma'am?
A 5/12/67.
Q Have you seen medical providers of any sort for the damages you're claiming in this case?

Page 8

A No.
Q Have you seen any counselors of any sort for the damages you're seeking in this case?
A No.
Q Have you ever had your deposition taken before?
A No.
Q Did you bring any documents here today with you to the deposition?
A No.
Q Off the record.
(Off the record)
BY MR. WATKINS:
Q Do you maintain a diary?
A No, I do not.
Q Do you maintain a journal of any sort like that where you make regular entries?
A On occasion.
Q Did you make any entries with respect to the incidents that are at issue here?
A I just made a statement on what occurred that day.
Q Was that at the request of your attorney?
A No.
Q Who did you make a statement for?
A For my manager.

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Q Who's that?
A Mindy Moore.
Q And when was that statement made?
MR. McELROY: That question is perfectly appropriate, but I think the response to the previous question, it was in response to an attorney's request which was made through her manager. It was made from my office to her manager, so she may not be aware of that. But you can certainly ask when it was made.
THE WITNESS: The morning of Saturday, February 27th.
BY MR. WATKINS:
Q Did you review any documents in preparation for your deposition such as a declaration or this statement?
A Yes.
Q Did you review this statement in preparation for your deposition?
A The declaration I reviewed today.
Q So you reviewed a declaration that you signed earlier in preparation for your deposition?
A Yes.
Q Did you review these notes that you made for Mindy Moore in preparation for your deposition?
A No.
Q When was the last time you saw those notes?

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A The morning of February 27th.
Q I presume they were handwritten notes?
A Yes.
Q And Ms. Moore requested that you make that statement?
A Yes.
Q Other than that written statement to Ms. Moore, did you maintain any notes in a computer on a Palm Pilot or any other type of notation regarding this incident?
A No.
MR. WATKINS: Is there a loss of earnings claim at all related to this?
MR. McELROY: No.
BY MR. WATKINS:
Q And do you agree with that? You didn't lose any money from work as a result of this, did you?
A No, I didn't.
Q And are you currently employed at Planned Parenthood?
A Yes, I am.
Q How long have you been there?
A Since October of 1997.
Q What are your job responsibilities there today?
A I'm a medical receptionist.
Q Have you held that same position since October

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'97?
A **No. I had a previous job title. I was previously a surgical assistant.**
Q When did you start as a medical receptionist?
A **Just July of this year, late July.**
Q July of 2001?
A **Yes.**
Q So from October '97 through July of 2001, you were a surgical assistant?
A **Yes.**
Q Do you have medical training related to being a surgical assistant?
A **I have a certificate in medical assisting.**
Q Where is that certificate from?
A **Concord Courier Institute.**
Q How long is that course?
A **Eight months.**
Q What are the things that you studied there at Concord Courier Institute?
A **How to draw blood, take vital signs, counsel patients.**
Q What type of patients?
A **Like pregnancy counseling.**
Q What else did you study there?
A **X-rays.**

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Q What did you do with x-rays? Taking x-rays? Reviewing x-rays?
A **Taking x-rays.**
Q Anything else?
A **And assist in minor surgeries.**
Q What kind of surgeries? Was there a specific group or specific type?
A **Lacerations. Nothing in particular, it was like a family planning.**
Q Did Concord Courier Institute have a curriculum set around family planning?
A **Mostly family planning, yes.**
Q Do you have a high school diploma?
A **Yes.**
Q When did you receive that?
A **19 June of 1984.**
Q And when did you go to Concord Courier?
A **October of 1990.**
Q Through what, June of '91?
A **June of '91.**
Q Between 1984 and 1990, did you obtain any other education?
A **I went to college for one year.**
Q College of Whittier?
A **Late '84, for one year.**

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Q What did you study at College of Whittier?
A **Medical assisting.**
Q Was it the same types of things you studied at Concord Courier?
A **It was mostly medical terminology.**
Q Did you study anatomy?
A **Yes.**
Q Did you study anatomy at Concord Courier?
A **No.**
Q And after College of Whittier, approximately 1985, what did you do with respect to either work or education?
A **Can you repeat that question?**
Q Sure. After leaving College of Whittier, what did you do as far as working or going to school?
A **I was a homemaker.**
Q And how long did you do that before you went back to work?
A **From late '85 until June, until I started school, I was a homemaker.**
Q Before you started at Concord Courier?
A **Yeah.**
Q Did you have any employment during that time?
A **I started my first job after graduating Concord with Point Loma Medical Group.**

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Q During the time that you were a homemaker, did you have any other employment?
A **No.**
Q And upon graduating from Concord Courier, you went to work for Point Loma Medical Group?
A **Yes.**
Q What was your job there?
A **Medical assistant.**
Q What were your responsibilities as a medical assistant there?
A **Assisting doctors with patients doing first trimester abortions.**
Q So you actually assisted in the procedure itself?
A **Yes.**
Q How long were you a medical assistant at Point Loma Medical Group?
A **About three and a half years.**
Q And during that entire time were you a medical assistant with first trimester abortions?
A **Yes.**
Q Were you involved in assisting any other types of abortions while you were at Point Loma Medical Group?
A **No.**
Q And as far as your memory then, while you were at Point Loma Medical Group, did you ever assist in a

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medically necessary late term abortion?
A No.
Q And where did you go to work after Point Loma?
A **I stayed home with my children.**
Q When did you start doing that as far as month and year? We're probably looking at what, 1990 or so? No, I missed that. Hold on. '95?
A **I stayed home until about late -- no, early '96, and then I started volunteering at Planned Parenthood before I got hired as an employee.**
Q When did you start volunteering?
A **June of '97.**
Q And what were you doing when you volunteered at Planned Parenthood?
A **I volunteered in the human resource department.**
Q And which Planned Parenthood facility was that?
A **Mission Valley.**
Q Have you been at Mission Valley Planned Parenthood since June of 1997?
A **Yes.**
Q How long were you an HR volunteer?
A **Until October of '97 when I got hired as a full-time employee.**
Q That's when you went to work as the surgical assistant?

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A **Yes.**
Q Why did you change from a surgical assistant to medical receptionist?
A **They had to downsize the department, so I was transferred to a different location.**
Q At the time of February 27, '99, were you a medical assistant -- or excuse me -- a surgical assistant?
A **Yes.**
Q Were you involved in counseling at all as a medical receptionist?
A **No.**
Q Have you done any counseling at Planned Parenthood?
A **Yes.**
Q Was that counseling part of the surgical assistant responsibilities?
A **Yes.**
Q And what else were the responsibilities of the surgical assistants at the time you were doing that?
A **Assisting with the doctors during procedures.**
Q What type of procedures?
A **Abortion.**
Q First term?
A **First term and second term.**

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Q Any late term, third term medically necessary abortions that you assisted in?
A **On occasions.**
Q And can you give me an approximate number?
A **Since I've been there or --**
Q Yes.
A **10 plus.**
Q I'm sorry?
A **More than 10.**
Q More than 20?
A **Maybe 15.**
Q I understand that you don't have a perfect memory or perfect database to go to for this information, so we do deal with approximates a lot. And if you're uncomfortable giving me an approximate, let me know, but otherwise it's okay to do that. Do you understand that?
A **Yes.**
Q What we don't want you to do is guess and give me some answer that you have no basis for. Do you understand that?
A **Yes.**
Q Have you ever assisted in a procedure known as partial birth abortion?
A **No.**
Q Have you ever witnessed one?

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A **No.**
Q So you assisted in counseling the patients and assisted in procedures of the surgical assistant. What other responsibilities did you have?
A **Basically making the patients comfortable during their visit.**
Q So patient care?
A **Yes.**
Q Post-procedure?
A **Yes.**
Q And would you typically be involved with the patient in counseling -- strike that.
Does it work like where a patient comes in and you're assigned to the patient to provide counseling and then to assist in the procedure and be involved all the way from start to finish? Do you handle different segments just depending on patient flow?
A **Different segments.**
Q And in the counseling that you referenced, is that something that's done pre-procedure?
A **Yes.**
Q Have you ever been -- strike that.
You worked on February 27th 1999, correct?
A **Yes.**
Q And you were working as a surgical assistant

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Q Okay. And what did you tell her in response, if anything?
A **I just told her to turn her head and look the other way.**
Q You had indicated before that you had participated as an assistant in first, second, and third term abortions; is that correct?
A **Yes.**
Q In your capacity as a surgical assistant during first term abortions, would you have anything to do with holding -- what is it -- the cannula?
A **No.**
Q Would that be primarily the doctor's responsibility to control the cannula?
A **Yes.**
Q Did you have anything to do with turning on or off the vacuum aspirator?
A **On occasions.**
Q And is the tubing on the vacuum aspirator translucent? Can you see through the tubing?
A **No.**
Q Do you know that uterine contents are flowing up once the vacuum aspirator is turned on and the abortion begins?
A **Yes.**

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Q And you know that includes some human byproducts and products of conception, right?
A **Yes.**
Q And has that always been your understanding since you attended Concord?
A **Yes.**
Q You also indicated that -- and can you give me an estimate as to the number of first term abortions you've assisted in?
A **Since working at Planned Parenthood or --**
Q Well, since you graduated from Concord.
A **Just a lot.**
Q And you had also indicated that you participated in second term abortions; is that correct?
A **Yes.**
Q And often, aside from the vacuum aspirator, there's other methods in performing abortion including dilation and evacuation?
A **Yes.**
Q Have you ever participated in dilation and evacuation?
A **Yes.**
Q And does that involve the removal of products of conception from the woman's body?
A **Yes.**

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Q And typically is there some bleeding involved in that?
A **Yes.**
Q Okay. And how many of those procedures have you participated in?
A **A lot.**
Q Hundreds?
A **Since being a medical --**
Q Uh-huh.
A **Yes.**
Q And based on your counseling experience with Planned Parenthood and having trained with Planned Parenthood, is that typically a distressful time for the woman involved?
A **Yes.**
Q And part of your job -- to deal with high emotions is part and parcel of your job duties; is that true?
A **Yes.**
Q And do you consider yourself to be pretty good at dealing with these high emotions?
A **Yes.**
Q And did it take a while to get used to or is it something you think you were sort of called to do?
A **It took a while.**

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Q Would you say that in some sense you're desensitized to the high emotions of the women involved in the abortion decision?
A **Yes.**
Q Now have you ever participated in the saline abortion?
A **No.**
Q But you do know that that's something that's been performed in the past as an option to dilation and evacuation; is that correct?
A **Yes.**
Q Were you given any training at Concord in saline abortion procedures?
A **No.**
Q Do you have any understanding as to how those are performed?
MR. McELROY: Objection; not reasonably calculated.
MR. ACKERMAN: It goes to the injury.
MR. McELROY: She's never been trained in them.
BY MR. ACKERMAN:
Q Have you ever seen pictures of saline abortions?
MR. McELROY: This is not reasonably calculated.
MR. ACKERMAN: Yes, it is.
MR. McELROY: It's not reasonably calculated to

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lead to the discovery of admissible evidence, and I'm going to instruct her not to answer the question.
MR. ACKERMAN: Okay.
BY MR. ACKERMAN:
Q. Have you ever participated in any other type of second term abortion aside from dilation and evacuation, maybe a vacuum aspiration at the beginning of the second term?
Obviously you said you hadn't participated in the saline abortion. Have you operated in other types of procedures that take place during the second term?
A No.
Q Now you had indicated that you had, in fact, participated in a third term medically necessary abortion; is that correct?
A Yes.
Q And were you in the operating room right next to the patient?
A Yes.
Q Is it not true that that procedure cannot be performed by vacuum aspiration?
A Yes.
Q And is it not always true that the ordinary method for performing a third term abortion would be dilation and evacuation?

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A Yes.
*** Q And also, I would assume that you understand, from a medical perspective, that in a third term abortion the fetus can be viable if the umbilical cord is cut, correct?**
MR. McELROY: Objection; this is not reasonably calculated. I'm going to instruct her not to answer the question.
BY MR. ACKERMAN:
Q You had indicated that one of the things that upset you was the pictures that my client had showed you.
Is it your testimony that those are inaccurate depictions of fetuses?
A Yes.
Q Those are inaccurate?
A Yes.
Q Okay. What's inaccurate about them?
A The fetuses don't always look like the ones that are shown on the picture.
Q Do they sometimes?
A Yes, on occasions.
Q So you've seen fetuses from actual procedures that looked like that?
A Yes.
Q Was that distressing to you the first time you

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saw that in an operating room?
A No.
Q Was it the fact that my client was holding the picture that made it more upsetting to you?
A Yes.
Q So if a doctor were holding the fetus, that wouldn't upset you?
A No.
Q Have you ever been asked to arrange for the disposal of human remains following a third term abortion?
A No.
*** Q Is it your opinion that my clients don't have a right to complain about these procedures?**
MR. McELROY: Objection; it's not reasonably calculated, and I'm instructing her not to answer the question.
MR. ACKERMAN: You don't think it goes toward attitude toward the action of my clients?
MR. McELROY: I don't know what attitude toward the action --
MR. ACKERMAN: You want me to pull out the Evidence Code?
MR. McELROY: You need to let me finish my sentence because we're on the record.

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MR. ACKERMAN: Finish your sentence.
MR. McELROY: I don't know what attitude toward the action has got to do with anything.
MR. ACKERMAN: Would you mind, do you have a copy of the Evidence Code? Do you want to entertain me?
MR. WATKINS: Just mark it and move on. He's not going to change his opinion.
MR. McELROY: I'm not going to debate it with you.
MR. ACKERMAN: We'll debate it in court. That's fine.
BY MR. ACKERMAN:
Q Are you a licensed phlebotomist?
A I have a certificate.
Q Do you have any licenses issued by the Board of Consumer Affairs of the State of California?
A No.
Q Okay.
Have you ever drawn blood in your capacity as a medical assistant at the Planned Parenthood facility?
A Yes.
Q Do you know how many other employees were present at Planned Parenthood on February 27th of '99?
A Between 10 and 12.
Q Do you know of any other lawsuits brought by

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EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive, Defendants.	)	

DEPOSITION OF AVECITA MUCINO, taken by the Defendants, at 625 Broadway, Suite 1400, San Diego, California, commencing at 4:41 p.m., Wednesday, November 14, 2001, before CHERYL M. BOLEY, CSR No. 9512, pursuant to Notice.

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APPEARANCES:
For the Plaintiffs:
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For the Defendant Ronald D. Brock:
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WITNESS:
AVECITA MUCINO

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EXHIBITS

DEFENDANTS'	DESCRIPTION	MARKED
(None)		

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SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 14, 2001
AT 4:41 P.M.
---o0o---

AVECITA MUCINO,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. WATKINS:

Q Can you please state your name and spell your full name for the record.
A My name?
Q Please.
A Avecita Mucino.
Q Will you spell that, please.
A A-V-E-C-I-T-A, M-U-C-I-N-O.
Q Do you have a middle name?
A No, I don't.
Q Ms. Mucino, as I mentioned earlier, my name is Dan Watkins, and I represent Ken Scott and we're going to ask you questions very much like we did with Ms. Wilkerson. And I won't go over all the admonitions, but I want to remind you that you are under oath, just like you would be under oath in a court of law. Do you

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understand that?
A Yes.
Q And please make sure you understand my question so that there's no confusion between the two of us and what we're talking about.
If there's any ambiguity in your mind, point it out and I'll restate the question in a different way. Do you understand that?
A Yes.
Q What's your date of birth, ma'am?
A 12/5/62.
Q I'm sorry?
A 12/5/62.
Q Have you ever had your deposition taken before?
A No.
Q Are you employed?
A Yes.
Q How so? Who are you employed by?
A Planned Parenthood.
Q How long have you been with Planned Parenthood?
A Three years.
Q So when did you start? I should have asked that.
A October '98.
Q Before we go into your work at Planned

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Parenthood, do you have a high school diploma?
A **No. I have a GED.**
Q When did you accomplish that?
A **1985.**
Q Other than the GED, do you have any other education?
A **Medical assistant.**
Q So you went to a medical assistant's course?
A **Yes.**
Q Where was that?
A **Los Angeles, California.**
Q The name of the school?
A **Bryman School.**
Q Can you spell that?
A **B-R-Y-M-A-N.**
Q Thank you.
And what was the -- what did you study there as a medical assistant?
A **Patient care and vital signs and lab.**
Q I'm sorry?
A **Lab. Laboratory.**
Q Oh, lab work?
A **Uh-huh, lab work. And phlebotomist.**
Q Is Bryman a school that's designed to provide medical assistant education for family planning?

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A **No.**
Q It's general medical assisting?
A **General.**
Q Did you learn any surgical procedures there, how to assist in surgical procedures at Bryman?
A **No surgical. Well, yes, surgical procedure like assisting a doctor in any surgical procedure, not a certain procedure.**
Q Just general surgical procedures?
A **Right.**
Q Did you study anatomy?
A **Only what is involved in the course, no more.**
Q Well, did you have a course on anatomy?
A **No, not that specific, just anatomy.**
Q What?
A **But -- well, of course, because the course involves anatomy.**
Q So in relationship to the different subjects that you studied, you studied anatomy as it applied to, for example, your surgical procedures?
A **Right.**
Q So it was kind of part and parcel to the other courses that you were studying?
A **Yes.**
Q And when did you complete your coursework at Bryman?

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A **'87, '88.**
Q Do you have any other educational experiences other than Bryman?
A **No.**
Q And how have you been employed since completing Bryman? What was your first job after that?
A **Family Planning Associates Medical Group.**
Q Oh, Associates Medical Group?
A **Uh-huh.**
Q Is that a "yes"?
A **Yes.**
Q And were you a medical assistant there?
A **Yes.**
Q What were your job responsibilities?
A **Taking vital signs and lab work.**
Q Did you do counseling?
A **No.**
Q Did you assist in any procedures?
A **Yes.**
Q Did you assist in first term abortions?
A **Yes.**
Q Did you assist in second term abortions?
A **No.**
Q How about did you ever assist in a medically necessary third term abortion?
A **No.**
Q Have you ever assisted in a partial birth abortion?
A **Can you explain that?**
Q If you don't understand the term, then you don't have to answer the question. Do you know what a partial birth abortion is?
A **No.**
Q Have you ever heard that term?
A **No.**
Q Approximately how many times did you assist in first term abortions at Family Planning Associates Medical Group?
A **A lot of times.**
Q I'm sorry?
A **A lot of times, I can't --**
Q More than 100?
A **Yes.**
Q More than 500?
A **I don't know.**
Q Hundreds?
A **Yes.**
Q I'll let Mr. Ackerman question you on the different types of procedures. I'm not familiar with

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those.
How long were you with Family Planning Associates Medical Group?
A From '89 to -- 1989 to '97.
Q Excuse me. 1989 through 1997?
A No, 1989 --
Q Right.
A -- to 1997.
Q So about eight years?
A Yes.
Q Were you a medical assistant the entire time?
A Yes.
Q And during that eight-year period you did not do any counseling?
A No.
Q And after leaving Family Planning Associates, is that when you went to Planned Parenthood?
A Yes.
Q Did you work anywhere else in between the two?
A No.
Q And what were your job responsibilities when you started at Planned Parenthood?
A Surgical services assistant.
Q And what were your responsibilities as a surgical services assistant?

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A Counseling patients, assisting the doctor in the procedures.
Q Post-procedure care as well?
A No.
Q And have you counseled hundreds of different patients?
A Yes.
Q Have you -- again, the counseling that you're providing, is that before the procedure?
A Yes.
Q The procedures that you've assisted with Planned Parenthood, do these include first term abortions?
A Yes.
Q Second term abortions?
A Yes.
Q And third term abortions? Have you assisted in any of those?
A What do you mean by third?
Q An abortion that occurs in the third trimester for medical reasons or otherwise.
A No.
MR. ACKERMAN: Can we go off the record?
(Off the record)
BY MR. WATKINS:
Q Approximately how many first term abortions have

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you assisted with at Planned Parenthood?
A I don't know.
Q Hundreds?
A Yes.
Q Would it be more than 100?
A Maybe, yes.
Q Well, don't guess, and don't give me an answer just because you think I want it. I'm just trying to get an estimate from you. If it's not 100, it's not --
A More than 100.
Q How about second term abortions? How many of those?
A About the same.
Q And are you still a surgical services assistant?
A Yes.
Q I'm looking at at least one declaration that you've signed in this case dated March 11, 1999, and it makes reference to an incident on February 27, 1999.
Do you have memory of something occurring on February 27, '99, an incident?
A Yes.
Q Are there any other incidents that you're complaining of as part of this lawsuit aside of what happened on February 27, 1999?
A No.

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Q And are you -- prior to February 27, 1999, did you ever work on a Saturday at Mission Valley Planned Parenthood?
A Yes.
Q And did you work on Saturdays as part of that rotation that we discussed with Ms. Wilkerson, just it would come up maybe two times a month you'd work on Saturdays?
A No. Two shifts, either you work Monday through Friday or Tuesday through Saturday. So I was on the Tuesday through Saturday schedule.
Q And did you work every Saturday then?
A Yes.
Q Do you continue to work every Saturday?
A No.
Q So initially when you were employed at Planned Parenthood, you were working every Saturday, Tuesday through Saturday?
A Yes.
Q When did that change?
A About a year and a half ago.
Q Why did that change?
A Because of my needs of my family. I needed to have Saturday off to spend more time with my family.
Q I don't want to get into your private life.

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JUN 14 2002
LTH COMMITTEE

SB 1301 (Kuehl) – The Reproductive Privacy Act

What does SB 1301 do?

- **Protects the Right to Choice in California**
  The Reproductive Privacy Act will protect Californians' fundamental right to choose a safe and legal abortion – even if the Supreme Court further reduces the federal protections contained in *Roe v. Wade.*

- **Provides Women Greater Access to Early Non-Surgical Abortion Methods**
  SB 1301 will provide greater access to early abortion methods like mifepristone (RU-486) by eliminating arbitrary barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

- **Deletes unconstitutional laws**
  SB 1301 deletes language in current state law that has been found unconstitutional in state and federal courts.

- **Treats abortion like other comparable medical procedures**
  Today, abortions are singled out for regulation that doesn't apply even to more complex procedures. SB 1301 allows healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

Why is the bill necessary?

In 1967, Governor Ronald Reagan signed the Therapeutic Abortion Act, which expanded legal abortion in California under very restrictive criteria. Most of those restrictions were subsequently ruled unconstitutional in the 1972 California Supreme Court case *People v. Barksdale.* The United States Supreme Court issued its landmark *Roe v. Wade* decision in 1973, bolstering California's recognition of abortion as a privacy right guaranteed by the Constitution of the United States. Though *Roe* and *Barksdale* have rendered much of the Therapeutic Abortion Act obsolete, the Act itself has never been repealed by the Legislature. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems.

Who supports the bill?

The bill is supported by Governor Davis and the top leadership of both the Assembly and Senate. The bill is also supported by a large number of women's groups, healthcare providers, civil rights groups, and pro-choice organizations. A complete list of sponsors and supporters is attached.

Why now?

We have an anti-choice President, an anti-choice Congress, and a Supreme Court that could be one vote away from overturning *Roe v. Wade.* Now is the time to protect our right to choose – right here in California. SB 1301 would keep abortion safe and legal in California even if the Supreme Court undercuts *Roe.*

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Who Supports the Reproductive Privacy Act?

Women's Organizations:

American Association of University Women, California
American Association of University Women, San Jose Chapter
American Association of University Women, Santa Cruz Chapter
California Commission on the Status of Women
California National Organization for Women
California Women's Law Center
California Women Lawyers
Contra Costa Commission for Women
Democratic Activists for Women Now
Democratic Women of Santa Barbara County
Democratic Women's Club of Santa Cruz County
Democratic Women's Club of Monterey County
Hadassah
League of Women Voters of California
League of Women Voters of the Monterey Peninsula
League of Women Voters, Santa Cruz County
Marin County Women's Commission
National Council of Jewish Women
National Latina Alliance
National Organization for Women, Monterey Peninsula Chapter
National Organization for Women, San Jose/South Bay Chapter
National Women's Political Caucus of California
Older Women's League
Santa Cruz County Women's Commission
The Women's Foundation
Valley Women's Club
Women's International League for Peace and Freedom, Monterey County
Women Lawyers Association of Los Angeles
Women Lawyers of Santa Cruz County
Women's International League for Peace and Freedom, Fresno Branch
Women's Programs, Monterey Peninsula College

Civil Rights Organizations:

American Civil Liberties Union
American Civil Liberties Union, Santa Cruz County
Democratic Central Committee of Santa Cruz County
Green Party, Monterey County
Lawyers Club of San Diego
Los Angeles County Young Democrats
Orcutt Republican Club
People for the American Way
Peoples Democratic Club of Santa Cruz
Santa Clara County Democratic Central Committee
United Nations Association of Santa Cruz County
West Hollywood Democratic Club
27th AD Democratic Committee

Health Care Organizations:

American Academy of Pediatrics, CA District IX
American College of Obstetricians and Gynecologists, District IX
California Family Health Council
California Medical Association
American Medical Women's Association
California Nurses Association
California Women's and Children's Health Coalition
Central Coast Alliance for Health
CommuniCare Health Centers
National Health Law Program
Physicians for Reproductive Choice and Health
Planned Parenthood Affiliates of California
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and San Luis Obispo Counties
Planned Parenthood: Shasta-Diablo
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
T.H.E. Clinic, Inc.
Women's Health Collaborative
Women's Health Specialists
Women's Lifecycle Medical Group

Pro-Choice Organizations:

California Abortion & Reproductive Rights Action League
California Pro-Choice Republicans
Choice USA, UC Santa Cruz Chapter
Medical Students for Choice, University of Southern California Chapter
Pro Choice Coalition of Santa Clara County
Religious Coalition for Reproductive Choice
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
Reproductive Rights Network of Ventura County
San Luis Obispo County Pro-Choice Coalition
Voters for Choice
Zero Population Growth of Monterey Bay

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Who Supports the Reproductive Privacy Act?

Elected Officials:

Governor Gray Davis
Lieutenant Governor Cruz Bustamante
Assembly Speaker Herb Wesson
(principal co-author)
Senate President Pro Tempore John Burton
(principal co-author)
Senator Alpert
Assemblymember Alquist
Assemblymember Aroner
Assemblymember Canciamilla
Assemblymember Cedillo
Assemblymember Chan
Senator Chesbro
Assemblymember Chu
Assemblymember Cohn
Assemblymember Corbett
Assemblymember Diaz
Senator Escutia
Senator Figueroa
Assemblymember Firebaugh
Assemblymember Frommer
Assemblymember Goldberg
Assemblymember Jackson
(principal co-author)
Senator Karnette
Assemblymember Keeley
Assemblymember Kehoe
Assemblymember Koretz
Assemblymember Liu
Assemblymember Longville
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Assemblymember Matthews
Assemblymember McLeod
Assemblymember Nakano
Assemblymember Nation
Assemblymember Oropeza
Senator Ortiz
Assemblymember Pavley
Senator Perata
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Assemblymember Salinas
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Senator Speier
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Board of Supervisors, County of Santa Cruz

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Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

Dear Friends and Partners:

With the United States Supreme Court poised to change its composition and the *Roe v. Wade* decision in peril, it's more important than ever we protect our constitutionally guaranteed right of reproductive choice. That's why we ask that your organization join us in supporting the Reproductive Privacy Act, a contemporary abortion law for California that replaces the antiquated and unconstitutional provisions of the Therapeutic Abortion Act of 1967.

The bill accomplishes four primary objectives for Californians: to provide women greater access to early non-surgical abortions, to remove unnecessary restrictions on abortion procedures, to delete unconstitutional provisions of the Therapeutic Abortion Act and to reaffirm privacy rights established by *Roe v. Wade.*

It is imperative that California clarifies in the law precisely what reproductive privacy rights the women and men of this great state enjoy. The Reproductive Privacy Act will ensure that California has a constitutionally firm abortion law that would protect privacy rights, now and in the future. By treating abortion consistently with other medical procedures, SB 1301 will ensure the safety of reproductive health care while eliminating the stigma the law has historically placed on the option of abortion services, replacing it with a declaration in support of the constitutional right to privacy and individual choice.

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: MARIN COUNTY WOMEN'S COMMISSION

Contact Name: Staff, Pat Warren

Address: Room 205 Civic Center
San Rafael CA 94903

Phone/Fax: 415 499 6557

E-Mail: pwarren@co.marin.ca.us

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Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

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Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Women's International League for Peace and Freedom - Fresno Branch
Contact Name: Carol Bequette
Address: P.O. Box 5114
Fresno, CA 93755
Phone/Fax: 559-229-9661 (Phone)
E-Mail: CBEQUETTE@AOL.COM

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United States Justice Foundation

June 7, 2002

Ellen M. Corbett, Chair
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Capitol Building, Room 4126
Sacramento, CA 95814
Fax 916-319-2118

Helen Thomson, Chair
ASSEMBLY COMMITTEE ON HEALTH
Capitol Building, Room 6005
Sacramento, CA 95814
Fax 916-319-2108

RE : Comments on SB1301: Reproductive Privacy Legislation

Dear Gentlepersons:

This serves as a brief analysis of SB1301. This particular bill is not pragmatically sound and would be detrimental to the health and safety of California's women. Planned Parenthood, as an example, is already allowing unlicensed personnel to practice medicine without a medical license. Indeed, some of their personnel have no licenses, whatsoever, and only a few months of training, before they are allowed to "assist" in abortion procedures. This is simply unconscionable and presents a danger to the health and safety of thousands of women in San Diego alone.

While it might be easy for someone to say that this is mere rhetoric, the facts speak for themselves. I have enclosed the sworn deposition testimony of two Planned Parenthood employees who, under oath, admit that they do not have licenses, but have assisted in the performance of "hundreds" of abortions in the last three years. One can see from their sworn testimony that neither employee had *any* specific training in abortion procedures. In fact, one of the employees is not even familiar with the basic terminology used in a 'therapeutic abortion' setting. SB1301 would greatly relax restrictions on who can participate/assist in the performance of "therapeutic abortions." Existing law already states that licensed physicians are the only personnel who may "assist" in an abortion. *California Health & Safety Code* § 123405.

SB1301 places a stamp of approval on the type of conduct that is testified to in the attached exhibits. The testimony is undeniable and under sworn oath. It would be incredibly irresponsible for the State of California to relax restriction on the provision of qualified and licensed personnel to California's women. It is trusted that you will responsibly vote on SB 1301 after reading the attached testimony.

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2091 East Valley Parkway • Suite 1-C • Escondido, California 92027 • (760) 741-8086 • Fax (760

Most respectfully Submitted:

UNITED STATES JUSTICE FOUNDATION

RICHARD D. ACKERMAN,
Attorney at Law.

CC : Assembly Member Vargas
Fax (619) 409-9270

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EXHIBIT 1

CONDENSED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES,	)	
Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive,	)	
Defendants.	)	

DEPOSITION OF MARIE WILKERSON

TAKEN ON

WEDNESDAY, NOVEMBER 14, 2001

Reporter: Cheryl M. Boley
CSR No. 9512

PRECISION COURT REPORTING SERVICES
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understand to make sure that your testimony accurately reflects the question I presented. Do you understand that?
A **Yes.**
Q It's important that only one person speak at a time. I don't think we'll have any problems here, but if we do, I'll just point it out, say we need to stop doing that. Because as I mentioned, when it reads like a play, if we're interrupting each other, when it's typed out the typeset is all interrupted and you can't read the question from the answer and it's difficult, so I'm going to ask you to try and wait until I'm done with my question. And it's also important to do that because sometimes the whole meaning of the question can change on the last word phrased. Okay?
A **Yes.**
Q Is there any reason you can think of today that would prevent you from giving your full and complete testimony such as medication, illness, anything like that?
A **No.**
Q What's your date of birth, ma'am?
A **5/12/67.**
Q Have you seen medical providers of any sort for the damages you're claiming in this case?

A **No.**
Q Have you seen any counselors of any sort for the damages you're seeking in this case?
A **No.**
Q Have you ever had your deposition taken before?
A **No.**
Q Did you bring any documents here today with you to the deposition?
A **No.**
Q Off the record.
(Off the record)
BY MR. WATKINS:
Q Do you maintain a diary?
A **No, I do not.**
Q Do you maintain a journal of any sort like that where you make regular entries?
A **On occasion.**
Q Did you make any entries with respect to the incidents that are at issue here?
A **I just made a statement on what occurred that day.**
Q Was that at the request of your attorney?
A **No.**
Q Who did you make a statement for?
A **For my manager.**

Q Who's that?
A **Mindy Moore.**
Q And when was that statement made?
MR. McELROY: That question is perfectly appropriate, but I think the response to the previous question, it was in response to an attorney's request which was made through her manager. It was made from my office to her manager, so she may not be aware of that. But you can certainly ask when it was made.
THE WITNESS: The morning of Saturday, February 27th.
BY MR. WATKINS:
Q Did you review any documents in preparation for your deposition such as a declaration or this statement?
A **Yes.**
Q Did you review this statement in preparation for your deposition?
A **The declaration I reviewed today.**
Q So you reviewed a declaration that you signed earlier in preparation for your deposition?
A **Yes.**
Q Did you review these notes that you made for Mindy Moore in preparation for your deposition?
A **No.**
Q When was the last time you saw those notes?

A **The morning of February 27th.**
Q I presume they were handwritten notes?
A **Yes.**
Q And Ms. Moore requested that you make that statement?
A **Yes.**
Q Other than that written statement to Ms. Moore, did you maintain any notes in a computer on a Palm Pilot or any other type of notation regarding this incident?
A **No.**
MR. WATKINS: Is there a loss of earnings claim at all related to this?
MR. McELROY: No.
BY MR. WATKINS:
Q And do you agree with that? You didn't lose any money from work as a result of this, did you?
A **No, I didn't.**
Q And are you currently employed at Planned Parenthood?
A **Yes, I am.**
Q How long have you been there?
A **Since October of 1997.**
Q What are your job responsibilities there today?
A **I'm a medical receptionist.**
Q Have you held that same position since October

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'97?
A No. I had a previous job title. I was previously a surgical assistant.
Q When did you start as a medical receptionist?
A Just July of this year, late July.
Q July of 2001?
A Yes.
Q So from October '97 through July of 2001, you were a surgical assistant?
A Yes.
Q Do you have medical training related to being a surgical assistant?
A I have a certificate in medical assisting.
Q Where is that certificate from?
A Concord Courier Institute.
Q How long is that course?
A Eight months.
Q What are the things that you studied there at Concord Courier Institute?
A How to draw blood, take vital signs, counsel patients.
Q What type of patients?
A Like pregnancy counseling.
Q What else did you study there?
A X-rays.

Q What did you do with x-rays? Taking x-rays? Reviewing x-rays?
A Taking x-rays.
Q Anything else?
A And assist in minor surgeries.
Q What kind of surgeries? Was there a specific group or specific type?
A Lacerations. Nothing in particular, it was like a family planning.
Q Did Concord Courier Institute have a curriculum set around family planning?
A Mostly family planning, yes.
Q Do you have a high school diploma?
A Yes.
Q When did you receive that?
A 19 June of 1984.
Q And when did you go to Concord Courier?
A October of 1990.
Q Through what, June of '91?
A June of '91.
Q Between 1984 and 1990, did you obtain any other education?
A I went to college for one year.
Q College of Whittier?
A Late '84, for one year.

Q What did you study at College of Whittier?
A Medical assisting.
Q Was it the same types of things you studied at Concord Courier?
A It was mostly medical terminology.
Q Did you study anatomy?
A Yes.
Q Did you study anatomy at Concord Courier?
A No.
Q And after College of Whittier, approximately 1985, what did you do with respect to either work or education?
A Can you repeat that question?
Q Sure. After leaving College of Whittier, what did you do as far as working or going to school?
A I was a homemaker.
Q And how long did you do that before you went back to work?
A From late '85 until June, until I started school, I was a homemaker.
Q Before you started at Concord Courier?
A Yeah.
Q Did you have any employment during that time?
A I started my first job after graduating Concord with Point Loma Medical Group.

Q During the time that you were a homemaker, did you have any other employment?
A No.
Q And upon graduating from Concord Courier, you went to work for Point Loma Medical Group?
A Yes.
Q What was your job there?
A Medical assistant.
Q What were your responsibilities as a medical assistant there?
A Assisting doctors with patients doing first trimester abortions.
Q So you actually assisted in the procedure itself?
A Yes.
Q How long were you a medical assistant at Point Loma Medical Group?
A About three and a half years.
Q And during that entire time were you a medical assistant with first trimester abortions?
A Yes.
Q Were you involved in assisting any other types of abortions while you were at Point Loma Medical Group?
A No.
Q And as far as your memory then, while you were at Point Loma Medical Group, did you ever assist in a

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medically necessary late term abortion?
A No.
Q And where did you go to work after Point Loma?
A I stayed home with my children.
Q When did you start doing that as far as month and year? We're probably looking at what, 1990 or so? No, I missed that. Hold on. '95?
A I stayed home until about late -- no, early '96, and then I started volunteering at Planned Parenthood before I got hired as an employee.
Q When did you start volunteering?
A June of '97.
Q And what were you doing when you volunteered at Planned Parenthood?
A I volunteered in the human resource department.
Q And which Planned Parenthood facility was that?
A Mission Valley.
Q Have you been at Mission Valley Planned Parenthood since June of 1997?
A Yes.
Q How long were you an HR volunteer?
A Until October of '97 when I got hired as a full-time employee.
Q That's when you went to work as the surgical assistant?

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A Yes.
Q Why did you change from a surgical assistant to medical receptionist?
A They had to downsize the department, so I was transferred to a different location.
Q At the time of February 27, '99, were you a medical assistant -- or excuse me -- a surgical assistant?
A Yes.
Q Were you involved in counseling at all as a medical receptionist?
A No.
Q Have you done any counseling at Planned Parenthood?
A Yes.
Q Was that counseling part of the surgical assistant responsibilities?
A Yes.
Q And what else were the responsibilities of the surgical assistants at the time you were doing that?
A Assisting with the doctors during procedures.
Q What type of procedures?
A Abortion.
Q First term?
A First term and second term.

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Q Any late term, third term medically necessary abortions that you assisted in?
A On occasions.
Q And can you give me an approximate number?
A Since I've been there or --
Q Yes.
A 10 plus.
Q I'm sorry?
A More than 10.
Q More than 20?
A Maybe 15.
Q I understand that you don't have a perfect memory or perfect database to go to for this information, so we do deal with approximates a lot. And if you're uncomfortable giving me an approximate, let me know, but otherwise it's okay to do that. Do you understand that?
A Yes.
Q What we don't want you to do is guess and give me some answer that you have no basis for. Do you understand that?
A Yes.
Q Have you ever assisted in a procedure known as partial birth abortion?
A No.
Q Have you ever witnessed one?

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A No.
Q So you assisted in counseling the patients and assisted in procedures of the surgical assistant. What other responsibilities did you have?
A Basically making the patients comfortable during their visit.
Q So patient care?
A Yes.
Q Post-procedure?
A Yes.
Q And would you typically be involved with the patient in counseling -- strike that.
Does it work like where a patient comes in and you're assigned to the patient to provide counseling and then to assist in the procedure and be involved all the way from start to finish? Do you handle different segments just depending on patient flow?
A Different segments.
Q And in the counseling that you referenced, is that something that's done pre-procedure?
A Yes.
Q Have you ever been -- strike that.
You worked on February 27th 1999, correct?
A Yes.
Q And you were working as a surgical assistant

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Q Okay. And what did you tell her in response, if anything?
A **I just told her to turn her head and look the other way.**
Q You had indicated before that you had participated as an assistant in first, second, and third term abortions; is that correct?
A **Yes.**
Q In your capacity as a surgical assistant during first term abortions, would you have anything to do with holding -- what is it -- the cannula?
A **No.**
Q Would that be primarily the doctor's responsibility to control the cannula?
A **Yes.**
Q Did you have anything to do with turning on or off the vacuum aspirator?
A **On occasions.**
Q And is the tubing on the vacuum aspirator translucent? Can you see through the tubing?
A **No.**
Q Do you know that uterine contents are flowing up once the vacuum aspirator is turned on and the abortion begins?
A **Yes.**

Q And you know that includes some human byproducts and products of conception, right?
A **Yes.**
Q And has that always been your understanding since you attended Concord?
A **Yes.**
Q You also indicated that -- and can you give me an estimate as to the number of first term abortions you've assisted in?
A **Since working at Planned Parenthood or --**
Q Well, since you graduated from Concord.
A **Just a lot.**
Q And you had also indicated that you participated in second term abortions; is that correct?
A **Yes.**
Q And often, aside from the vacuum aspirator, there's other methods in performing abortion including dilation and evacuation?
A **Yes.**
Q Have you ever participated in dilation and evacuation?
A **Yes.**
Q And does that involve the removal of products of conception from the woman's body?
A **Yes.**

Q And typically is there some bleeding involved in that?
A **Yes.**
Q Okay. And how many of those procedures have you participated in?
A **A lot.**
Q Hundreds?
A **Since being a medical --**
Q Uh-huh.
A **Yes.**
Q And based on your counseling experience with Planned Parenthood and having trained with Planned Parenthood, is that typically a distressful time for the woman involved?
A **Yes.**
Q And part of your job -- to deal with high emotions is part and parcel of your job duties; is that true?
A **Yes.**
Q And do you consider yourself to be pretty good at dealing with these high emotions?
A **Yes.**
Q And did it take a while to get used to or is it something you think you were sort of called to do?
A **It took a while.**

Q Would you say that in some sense you're desensitized to the high emotions of the women involved in the abortion decision?
A **Yes.**
Q Now have you ever participated in the saline abortion?
A **No.**
Q But you do know that that's something that's been performed in the past as an option to dilation and evacuation; is that correct?
A **Yes.**
Q Were you given any training at Concord in saline abortion procedures?
A **No.**
Q Do you have any understanding as to how those are performed?
MR. McELROY: Objection; not reasonably calculated.
MR. ACKERMAN: It goes to the injury.
MR. McELROY: She's never been trained in them.
BY MR. ACKERMAN:
* Q Have you ever seen pictures of saline abortions?
MR. McELROY: This is not reasonably calculated.
MR. ACKERMAN: Yes, it is.
MR. McELROY: It's not reasonably calculated to

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lead to the discovery of admissible evidence, and I'm going to instruct her not to answer the question.

MR. ACKERMAN: Okay.

BY MR. ACKERMAN:

Q Have you ever participated in any other type of second term abortion aside from dilation and evacuation, maybe a vacuum aspiration at the beginning of the second term?

Obviously you said you hadn't participated in the saline abortion. Have you operated in other types of procedures that take place during the second term?

A No.

Q Now you had indicated that you had, in fact, participated in a third term medically necessary abortion; is that correct?

A Yes.

Q And were you in the operating room right next to the patient?

A Yes.

Q Is it not true that that procedure cannot be performed by vacuum aspiration?

A Yes.

Q And is it not always true that the ordinary method for performing a third term abortion would be dilation and evacuation?

A Yes.

*** Q And also, I would assume that you understand, from a medical perspective, that in a third term abortion the fetus can be viable if the umbilical cord is cut, correct?**

MR. McELROY: Objection; this is not reasonably calculated. I'm going to instruct her not to answer the question.

BY MR. ACKERMAN:

Q You had indicated that one of the things that upset you was the pictures that my client had showed you.

Is it your testimony that those are inaccurate depictions of fetuses?

A Yes.

Q Those are inaccurate?

A Yes.

Q Okay. What's inaccurate about them?

A The fetuses don't always look like the ones that are shown on the picture.

Q Do they sometimes?

A Yes, on occasions.

Q So you've seen fetuses from actual procedures that looked like that?

A Yes.

Q Was that distressing to you the first time you

saw that in an operating room?

A No.

Q Was it the fact that my client was holding the picture that made it more upsetting to you?

A Yes.

Q So if a doctor were holding the fetus, that wouldn't upset you?

A No.

Q Have you ever been asked to arrange for the disposal of human remains following a third term abortion?

A No.

*** Q Is it your opinion that my clients don't have a right to complain about these procedures?**

MR. McELROY: Objection; it's not reasonably calculated, and I'm instructing her not to answer the question.

MR. ACKERMAN: You don't think it goes toward attitude toward the action of my clients?

MR. McELROY: I don't know what attitude toward the action --

MR. ACKERMAN: You want me to pull out the Evidence Code?

MR. McELROY: You need to let me finish my sentence because we're on the record.

MR. ACKERMAN: Finish your sentence.

MR. McELROY: I don't know what attitude toward the action has got to do with anything.

MR. ACKERMAN: Would you mind, do you have a copy of the Evidence Code? Do you want to entertain me?

MR. WATKINS: Just mark it and move on. He's not going to change his opinion.

MR. McELROY: I'm not going to debate it with you.

MR. ACKERMAN: We'll debate it in court. That's fine.

BY MR. ACKERMAN:

Q Are you a licensed phlebotomist?

A I have a certificate.

Q Do you have any licenses issued by the Board of Consumer Affairs of the State of California?

A No.

Q Okay.

Have you ever drawn blood in your capacity as a medical assistant at the Planned Parenthood facility?

A Yes.

Q Do you know how many other employees were present at Planned Parenthood on February 27th of '99?

A Between 10 and 12.

Q Do you know of any other lawsuits brought by

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EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Plaintiffs, vs. KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive, Defendants.	Case No. 728883

DEPOSITION OF AVECITA MUCINO, taken by the Defendants, at 625 Broadway, Suite 1400, San Diego, California, commencing at 4:41 p.m., Wednesday, November 14, 2001, before CHERYL M. BOLEY, CSR No. 9512, pursuant to Notice.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

APPEARANCES:
For the Plaintiffs:
LAW OFFICES OF JAMES E. McELROY
BY: JAMES E. McELROY
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For the Defendant Kenneth Tyler Scott:
HELMUS & WATKINS, LLP
BY: DANIEL R. WATKINS
1912 North Broadway, Suite 205
Santa Ana, California 92706
(714) 835-2211

For the Defendant Ronald D. Brock:
UNITED STATES JUSTICE FOUNDATION
BY: RICHARD D. ACKERMAN
2091 East Valley Parkway, Suite 1-C
Escondido, California 92027
(760) 741-8086

INDEX

WITNESS:
AVECITA MUCINO

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* QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER

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EXHIBITS

DEFENDANTS'	DESCRIPTION	MARKED
(None)		

SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 14, 2001
AT 4:41 P.M.
---o0o---

AVECITA MUCINO,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. WATKINS:

Q Can you please state your name and spell your full name for the record.

A **My name?**

Q Please.

A **Avecita Mucino.**

Q Will you spell that, please.

A **A-V-E-C-I-T-A, M-U-C-I-N-O.**

Q Do you have a middle name?

A **No, I don't.**

Q Ms. Mucino, as I mentioned earlier, my name is Dan Watkins, and I represent Ken Scott and we're going to ask you questions very much like we did with Ms. Wilkerson. And I won't go over all the admonitions, but I want to remind you that you are under oath, just like you would be under oath in a court of law. Do you

understand that?

A **Yes.**

Q And please make sure you understand my question so that there's no confusion between the two of us and what we're talking about.

If there's any ambiguity in your mind, point it out and I'll restate the question in a different way. Do you understand that?

A **Yes.**

Q What's your date of birth, ma'am?

A **12/5/62.**

Q I'm sorry?

A **12/5/62.**

Q Have you ever had your deposition taken before?

A **No.**

Q Are you employed?

A **Yes.**

Q How so? Who are you employed by?

A **Planned Parenthood.**

Q How long have you been with Planned Parenthood?

A **Three years.**

Q So when did you start? I should have asked that.

A **October '98.**

Q Before we go into your work at Planned

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Page 7

Parenthood, do you have a high school diploma?
A No. I have a GED.
Q When did you accomplish that?
A 1985.
Q Other than the GED, do you have any other education?
A Medical assistant.
Q So you went to a medical assistant's course?
A Yes.
Q Where was that?
A Los Angeles, California.
Q The name of the school?
A Bryman School.
Q Can you spell that?
A B-R-Y-M-A-N.
Q Thank you.
And what was the -- what did you study there as a medical assistant?
A Patient care and vital signs and lab.
Q I'm sorry?
A Lab. Laboratory.
Q Oh, lab work?
A Uh-huh, lab work. And phlebotomist.
Q Is Bryman a school that's designed to provide medical assistant education for family planning?

Page 8

A No.
Q It's general medical assisting?
A General.
Q Did you learn any surgical procedures there, how to assist in surgical procedures at Bryman?
A No surgical. Well, yes, surgical procedure like assisting a doctor in any surgical procedure, not a certain procedure.
Q Just general surgical procedures?
A Right.
Q Did you study anatomy?
A Only what is involved in the course, no more.
Q Well, did you have a course on anatomy?
A No, not that specific, just anatomy.
Q What?
A But -- well, of course, because the course involves anatomy.
Q So in relationship to the different subjects that you studied, you studied anatomy as it applied to, for example, your surgical procedures?
A Right.
Q So it was kind of part and parcel to the other courses that you were studying?
A Yes.
Q And when did you complete your coursework at Bryman?
A '87, '88.
Q Do you have any other educational experiences other than Bryman?
A No.
Q And how have you been employed since completing Bryman? What was your first job after that?
A Family Planning Associates Medical Group.
Q Oh, Associates Medical Group?
A Uh-huh.
Q Is that a "yes"?
A Yes.
Q And were you a medical assistant there?
A Yes.
Q What were your job responsibilities?
A Taking vital signs and lab work.
Q Did you do counseling?
A No.
Q Did you assist in any procedures?
A Yes.
Q Did you assist in first term abortions?
A Yes.
Q Did you assist in second term abortions?
A No.
Q How about did you ever assist in a medically necessary third term abortion?
A No.
Q Have you ever assisted in a partial birth abortion?
A Can you explain that?
Q If you don't understand the term, then you don't have to answer the question. Do you know what a partial birth abortion is?
A No.
Q Have you ever heard that term?
A No.
Q Approximately how many times did you assist in first term abortions at Family Planning Associates Medical Group?
A A lot of times.
Q I'm sorry?
A A lot of times, I can't --
Q More than 100?
A Yes.
Q More than 500?
A I don't know.
Q Hundreds?
A Yes.
Q I'll let Mr. Ackerman question you on the different types of procedures. I'm not familiar with

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those.
How long were you with Family Planning Associates Medical Group?
A From '89 to -- 1989 to '97.
Q Excuse me. 1989 through 1997?
A No, 1989 --
Q Right.
A -- to 1997.
Q So about eight years?
A Yes.
Q Were you a medical assistant the entire time?
A Yes.
Q And during that eight-year period you did not do any counseling?
A No.
Q And after leaving Family Planning Associates, is that when you went to Planned Parenthood?
A Yes.
Q Did you work anywhere else in between the two?
A No.
Q And what were your job responsibilities when you started at Planned Parenthood?
A Surgical services assistant.
Q And what were your responsibilities as a surgical services assistant?

A Counseling patients, assisting the doctor in the procedures.
Q Post-procedure care as well?
A No.
Q And have you counseled hundreds of different patients?
A Yes.
Q Have you -- again, the counseling that you're providing, is that before the procedure?
A Yes.
Q The procedures that you've assisted with Planned Parenthood, do these include first term abortions?
A Yes.
Q Second term abortions?
A Yes.
Q And third term abortions? Have you assisted in any of those?
A What do you mean by third?
Q An abortion that occurs in the third trimester for medical reasons or otherwise.
A No.
MR. ACKERMAN: Can we go off the record?
(Off the record)
BY MR. WATKINS:
Q Approximately how many first term abortions have you assisted with at Planned Parenthood?
A I don't know.
Q Hundreds?
A Yes.
Q Would it be more than 100?
A Maybe, yes.
Q Well, don't guess, and don't give me an answer just because you think I want it. I'm just trying to get an estimate from you. If it's not 100, it's not --
A More than 100.
Q How about second term abortions? How many of those?
A About the same.
Q And are you still a surgical services assistant?
A Yes.
Q I'm looking at at least one declaration that you've signed in this case dated March 11, 1999, and it makes reference to an incident on February 27, 1999.
Do you have memory of something occurring on February 27, '99, an incident?
A Yes.
Q Are there any other incidents that you're complaining of as part of this lawsuit aside of what happened on February 27, 1999?
A No.

Q And are you -- prior to February 27, 1999, did you ever work on a Saturday at Mission Valley Planned Parenthood?
A Yes.
Q And did you work on Saturdays as part of that rotation that we discussed with Ms. Wilkerson, just it would come up maybe two times a month you'd work on Saturdays?
A No. Two shifts, either you work Monday through Friday or Tuesday through Saturday. So I was on the Tuesday through Saturday schedule.
Q And did you work every Saturday then?
A Yes.
Q Do you continue to work every Saturday?
A No.
Q So initially when you were employed at Planned Parenthood, you were working every Saturday, Tuesday through Saturday?
A Yes.
Q When did that change?
A About a year and a half ago.
Q Why did that change?
A Because of my needs of my family. I needed to have Saturday off to spend more time with my family.
Q I don't want to get into your private life.

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June 13, 2002

The Honorable Helen Thomson, Chair
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

RE: Support for SB 1301 (Kuehl) – As Amended April 8, 2002

Dear Assembly Member Thomson:

Planned Parenthood Affiliates of California (PPAC) is proud to sponsor SB 1301 (Kuehl). This important measure will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please vote Aye on SB 1301 when it is heard in the Assembly Health Committee on June 25, 2002.

Sincerely,

Sue Dunlap
Vice President of Public Policy

cc: Senator Sheila Kuehl

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Scott D. Anderson
Executive Director

June 17, 2002

The Hon. Helen Thomson, Chair
Assembly Health Committee **RE: SB 1301**

Dear Assemblymember Thomson:

We are writing in support of Senator Sheila Kuehl's bill, SB 1301 that guarantees all women's access to reproductive health services including abortion and that cradicates archaic statues that remain on the books within our state laws.

We at California Church Impact, representing 20 Protestant and Orthodox denominations and 1.5 million members strongly support this bill and a woman's right to choose safe and legal abortion services. We believe that this decision is intensely personal and that we must respect women as moral agents of their own lives. To this end, we support policies that offer women and families the right to make these decisions without restrictions that could hamper their free exercise of conscience to exercise whatever options she and those close to her see fit.

Failure to maintain unfettered access to choice virtually guarantees that women in desperate circumstances will not cease having abortions but will find themselves once again relegated to the "back alley" of unsafe, unlicensed, and dangerous services.

We urge the Assembly Health Committee to exercise their greatest care on behalf of women in California by supporting this important and timely bill. Thank you.

Sincerely,

Elizabeth Sholes
Public Policy Coordinator

African Methodist Episcopal Church
American Baptist Churches of the West
Armenian Church of America
Christian Church (Disciples of Christ)
Episcopal Church
Evangelical Lutheran Church in America
Greek Orthodox Church
Moravian Church in America
Presbyterian Church (U.S.A.)
Reformed Church in America
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United Church of Christ
Universal Fellowship of Metropolitan Community Churches
Church Women United

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STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

June 19, 2002

RECEIVED
JUN 20 2002
HEALTH COMMITTEE

The Honorable Helen Thomson
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

Dear Assemblymember Thomson:

RE: Support for SB 1301 (Kuehl) Reproductive Privacy Act

The California Commission on the Status of Women requests your "aye" vote on SB 1301. This measure would enact a constitutionally-sound reproductive rights law ensuring that a Californian's right to privacy and the decision to choose a safe and legal abortion are protected, now and in the future.

SB 1301 would increase access to early, non-surgical methods of abortion such as mifepristone (RU-486) by allowing healthcare providers, within their particular scope of practice, to perform or assist in the performance of surgical and non-surgical abortions. Further, SB 1301 would delete the unconstitutional and unenforceable provisions of existing state law that create confusion and inconsistency with regard to abortion.

Women's access to health care, including reproductive health care, has been a long-standing priority for the Commission. The Reproductive Privacy Act is critical to the preservation of a California woman's constitutional right to make decisions regarding her reproductive health. SB1301 would protect her fundamental right to privacy and ensure access to a safe and legal abortion.

For these reasons, we ask that you **vote "aye" on SB 1301.** If we can be of assistance to you, please contact our Executive Director, Mary Wiberg, or our Legislative Coordinator, Vicki Atwood, at 916-445-3173.

Sincerely,

Elmy Bermejo
Chairperson

cc: The Honorable Sheila Kuehl
Assembly Health Committee

(916) 445-3173 • (916) 322-9466 fax • info@women.ca.gov • www.women.ca.gov

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LEAGUE OF WOMEN VOTERS OF CALIFORNIA

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Program Director/Advocate
Trudy Schafer

June 20, 2002

The Honorable Helen Thomson, Chair
Committee on Health
California State Assembly
P.O. Box 942849
Sacramento, CA 94249-0001

Re: SB 1301 (Kuehl) – Support

Dear Assembly Member Thomson:

The League of Women Voters of California is pleased to support SB 1301 (Kuehl), the Reproductive Privacy Act.

This bill rids California of the provisions of the Therapeutic Abortion Act of 1967 which are antiquated and unconstitutional. It firmly establishes California's commitment to the fundamental right of freedom of reproductive choice by affirming the privacy rights established by *Roe v. Wade*. In addition, it assures women increased access to safe and early methods of abortion by clarifying the ability of health care providers, acting within their existing scopes of practice, to perform or assist in performance of surgical and nonsurgical abortions.

The League of Women Voters supports reproductive freedom and believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual. SB 1301 is right for the citizens of California. It will safeguard the privacy of women and ensure that reproductive health care policy guards the safety and health of women in California. We urge your AYE vote on this important measure.

Sincerely,

Barbara Inatsugu

Barbara Inatsugu
President

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS

DISTRICT IX — WOMEN'S HEALTH CARE PHYSICIANS

March 24, 2001

RECEIVED
JUN 20
COMMITTEE

The Honorable Sheila James Kuehl
State Capitol, Room 4032
Sacramento, CA 95814

RE: Senate Bill 1301 (Kuehl)
ACOG-IX Position: SUPPORT

Dear Senator Kuehl:

The American College of Obstetricians and Gynecologists, District IX representing more than 4300 practicing California physicians, is pleased to support your Senate Bill 1301.

SB 1301 will repeal provisions of California's Therapeutic Abortion Act which have been found unconstitutional by the courts and replace them with a clear statement regarding a woman's right to choose. This measure also clarifies the role of healthcare professionals in the provision of abortion services. It is our understanding that an amendment will be taken to the bill on April 9th in the Senate Judiciary Committee which clarifies what is meant by nonsurgical abortion. We strongly support the inclusion of this amendment.

ACOG, District IX believes that termination of a pregnancy before viability is a medical matter between a woman and her physician. We support access to care for all individuals, irrespective of financial status, and the availability of all reproductive options. We also oppose any unnecessary regulations or laws which serve to limit or delay access to care, such as those provisions of the Therapeutic Abortion Act which are being repealed by this measure.

For these reasons, we have taken a **SUPPORT** position on SB 1301 and applaud your leadership in ensuring that women have access to abortion services. If I may provide you with additional information regarding our position on this measure, please do not hesitate to contact me at 415.258.9926.

Sincerely,

Joan M. Hall, JD
Legislative Advocate

Cc: Consultant to Senate Judiciary Committee

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JUN 20 2002
HEALTH COMMITTEE

June 20, 2002

The Honorable Helen Thomson
Chairwoman, Assembly Health
State Capitol
Sacramento, CA 95814

Re: **SB 1301 – OPPOSE**

Dear Chairwoman Thomson:

Capitol Resource Institute opposes SB 1301.

SB 1301 states that every individual possesses a fundamental right to choose or refuse birth control, and the fundamental right to choose to bear a child or obtain an abortion.

Capitol Resource Institute believes that while men and women certainly not only a have right but a responsibility to exercise prudent birth control measures, that babies have the "fundamental right" to expect that once conceived they have the right to expect that their mothers will give them a chance to protect them and allow them to live.

SB 1301 also allows non-physicians to perform non-surgical abortions. In light of recent reports detailing the deaths of women who took RU-486, this bill could unduly place women's lives at risk.

Capitol Resource Institute believes SB 1301 is fundamentally flawed in that it does not consider the risks of non-surgical abortions nor does it consider the life of unborn children. We strongly urge your no vote on SB 1301.

Sincerely,

Karen Holgate

Karen Holgate
Director of Policy

cc: Members Assembly Health
Senator Sheila Kuehl

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JUN 20 2002
HEALTH COMMITTEE

June 20, 2002

Assemblymember Helen Thomson, Chair
Assembly Health Committee
State Capitol, Room 6005
Sacramento, California 95814

Dear Assemblymember Thomson:

On behalf of the Kaiser Permanente Medical Care Program, I respectfully request your positive consideration of SB 1301 (Kuehl) when it is heard by the Assembly Health Committee on Tuesday, June 25.

SB 1301 proposes to delete provisions of the Therapeutic Abortion Act that have been declared invalid. The bill would also delete the name of the act, and enact in its place the Reproductive Privacy Act which would, among other things, provide that every individual possesses a fundamental right of privacy with respect to reproductive decisions.

SB 1301 is consistent with Kaiser Permanente's position that reproductive decisions should appropriately be made by a woman in consultation with her physician, and would, again, urge your positive consideration.

Sincerely,

Lynda Lucio Ross
Legislative Representative

c.c. Senator Sheila Kuehl
Assembly Health Committee
Richard Figueroa, Governor's Office

Government Relations
1215 "K" Street, Suite 2030
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California Medical Association
Physicians dedicated to the health of Californians

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June 20, 2002

The Honorable Helen Thomson, Chair
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

RE: **SB 1301 (Kuehl)**
CMA Position: **Support**

Dear Assembly Member Thomson:

The California Medical Association, representing over 34,000 California physicians supports Senate Bill 1301 (as amended on April 8), by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act codifies existing case law that provides access to safe and legal reproductive health services, including abortion services.

In addition, SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice. The April 8 amendments define non-surgical abortion as the use of pharmacologic agents, which are crucial to this bill, as it needs to be clear we are not permitting anyone other than physicians to perform invasive procedures due to concerns regarding safety.

The Reproductive Privacy Act eliminates the unconstitutional, unenforceable and antiquated provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health, and has no fiscal effect on the State.

Please vote "Aye" on SB 1301 when it is heard in the Assembly Health Committee on June 25th.

Sincerely,

Shannon Smith-Crowley, J.D., M.H.A.
Associate Director

Cc: The Honorable Sheila Kuehl
The Members of the Assembly Health Committee
Scott Bain, Consultant, Assembly Health Committee
Jennifer Fitzgerald, Consultant, Assembly Republican Caucus

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June 20, 2002

The Honorable Helen Thomson
Chair, Assembly Health Committee
State Capitol
Sacramento, CA 95814

Re: SB 1301 (Kuehl) -- Oppose

Dear Assemblywoman Corbett:

Campaign for California Families opposes SB 1301 because it celebrates the killing of pre-born children as a "fundamental right." Abortion ends a pregnancy by destroying and removing the developing child. That baby's heart has already begun to beat by the time the mother misses her period and begins to wonder if she might be pregnant (about 31 days after the mother's last menstrual period or LMP). Surgical abortions are usually not performed before seven weeks, or 49 days LMP. By that time, the baby has identifiable arms and legs (day 45) and displays measurable brain waves (about 40 days). During the seventh through the tenth weeks, when the majority of abortions are performed, fingers and genitals appear and the child's face is recognizably human.

True fundamental rights include the right to life. SB 1301 celebrates abortion, a horrible act that kills 100% of the unborn children who suffer through it. The vast majority of all abortions performed today are done for social, not medical reasons -- because a woman doesn't feel ready for a baby at the time, because her partner wants her to have an abortion, etc. Approximately 93% of all induced abortions are done for elective, non-medical reasons such as these. Destroying innocent human life for convenience is wrong and should not be seen as a celebration of "privacy" or anything else.

Sincerely,

Erik Hartstrom

Erik Hartstrom
Legislative Analyst
Campaign for California Families

cc: The Honorable Sheila Kuehl, bill author
The Honorable Sam Aanestad, Vice Chair
Committee Members
Republican Caucus Consultant

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STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

RECEIVED
JUN 20
HEALTH COMMIT

June 19, 2002

The Honorable Helen Thomson
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

Dear Assemblymember Thomson:

RE: Support for SB 1301 (Kuehl) Reproductive Privacy Act

The California Commission on the Status of Women requests your "aye" vote on SB 1301. This measure would enact a constitutionally-sound reproductive rights law ensuring that a Californian's right to privacy and the decision to choose a safe and legal abortion are protected, now and in the future.

SB 1301 would increase access to early, non-surgical methods of abortion such as mifepristone (RU-486) by allowing healthcare providers, within their particular scope of practice, to perform or assist in the performance of surgical and non-surgical abortions. Further, SB 1301 would delete the unconstitutional and unenforceable provisions of existing state law that create confusion and inconsistency with regard to abortion.

Women's access to health care, including reproductive health care, has been a long-standing priority for the Commission. The Reproductive Privacy Act is critical to the preservation of a California woman's constitutional right to make decisions regarding her reproductive health. SB1301 would protect her fundamental right to privacy and ensure access to a safe and legal abortion.

For these reasons, we ask that you **vote "aye" on SB 1301.** If we can be of assistance to you, please contact our Executive Director, Mary Wiberg, or our Legislative Coordinator, Vicki Atwood, at 916-445-3173.

Sincerely,

Elmy Bermejo
Chairperson

cc: The Honorable Sheila Kuehl
Assembly Health Committee

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THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS

DISTRICT IX

WOMEN'S HEALTH CARE PHYSICIANS

June 19, 2002

The Honorable Helen Thomson, Chair
State Capitol, Room 6005
Sacramento, CA 95814

RE: Senate Bill 1301 (Kuehl)
ACOG-IX Position: SUPPORT

Dear Senator Thomson:

The American College of Obstetricians and Gynecologists, District IX representing more than 4300 practicing California physicians, is pleased to support your Senate Bill 1301. This bill is scheduled to be heard in the Assembly Health Committee on June 25th.

SB 1301 will repeal provisions of California's Therapeutic Abortion Act which have been found unconstitutional by the courts and replace them with a clear statement regarding a woman's right to choose. This measure also clarifies the role of healthcare professionals in the provision of abortion services.

ACOG, District IX believes that termination of a pregnancy before viability is a medical matter between a woman and her physician. We support access to care for all individuals, irrespective of financial status, and the availability of all reproductive options. We also oppose any unnecessary regulations or laws which serve to limit or delay access to care, such as those provisions of the Therapeutic Abortion Act which are being repealed by this measure.

For these reasons, we have taken a **SUPPORT** position on SB 1301 and urge your **AYE** vote when this bill comes before you in the Assembly Health Committee on June 25th. If I may provide you with additional information regarding our position on this measure, please do not hesitate to contact me at 415.258.9926.

Sincerely,

Joan M. Hall, JD
Legislative Advocate

cc: John Gilman, MD, Consultant to Assembly Health Committee, Room 6005

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Shaping Tomorrow's Health Care
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RECEIVED
JUN 21 2002
HEALTH COMMITTEE

June 19, 2002

The Honorable Helen Thomson, Chair
Assembly Health Committee
State Capitol
Sacramento, California 95814

RE: SB 1301 (Kuehl) – SUPPORT
HEARING: Assembly Health Committee – 6/25

Dear Assemblymember Thomson:

The California Nurses Association supports **Senate Bill 1301**, by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

We urge your **"Aye" vote on SB 1301.**

Sincerely,

Vicki Bermudez

Vicki Bermudez, RN
Regulatory Policy Specialist

Cc: Members, Assembly Health Committee
Consultant
Senator Sheila Kuehl

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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Hispanics for Life and Human Rights
Hispanos a favor de la Vida y Derechos Humanos

RECEIVED
JUN 21 2002
HEALTH COMMITTEE

C

Dedicated to the preservation of our heritage
Dedicados a conservar nuestra herencia cultural

June 21, 2002

RE: SB 1301 - A racial genocide cover-up.

Dear Member of the Assembly Health Committee:

On behalf of Hispanics For Life, I am asking for your "NO" vote on SB 1301. This bill would eliminate an existing, albeit seldomly enforced, requirement for the reporting of abortions for demographic purposes.

As it is, we do not have sufficient statistical reporting of abortions. Passing this bill will see to it that almost no quantitative data will exist to substantiate what we know is happening. Hispanic and black women are being deceptively used to bring Medi-Cal money into abortionists' pockets and racists are all too happy to make it happen.

The few statistics that exist, mostly from state Department of Health reports on Medi-Cal payments for abortions, are revealing. While blacks comprise 7% of California population, they account for 15% of Medi-Cal abortions. Hispanics account for 30%, just about at their 32% population level. But 20% of abortion claims do not report the woman's race. Who is to say that Hispanics don't account for 50% of California abortions? SB 1301 would permanently hide such information.

We have done our own studies on abortion in the Hispanic community, and we can only conclude that Hispanics ARE being exploited. While non-Hispanic Americans rarely see abortion advertisements in English language media, Hispanics are bombarded with message after message that abortion is O.K. Spanish TV continuously show abortion clinic commercials during family hours, Spanish radio plays abortion commercials all day long, while Spanish magazines and newspapers run ads targeting poor women and even offer them discounts and coupons.

The majority of abortion clinics are located in Hispanic and African-American neighborhoods. If in doubt, just check the yellow-pages of a metropolitan phonebook. Hispanic women are told not to worry about cost, that Medi-Cal will pay for their abortion. How many other kinds of elective surgical procedures does Medi-Cal pay for? I can find none. We call this racial genocide!

Please vote "NO" on SB 1301.

Sincerely,

Marcella Melendez

Marcella Melendez,
President, Hispanics for Life and Human Rights

P.O. Box 9086 • Torrance, CA 90508

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

California National Organization for Women
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RECEIVED
JUN 21 2002

June 20, 2002

The Honorable Helen Thomson, Chair
Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

RE: SB 1301 (Kuehl) – SUPPORT

Dear Assemblymember Thomson:

The California National Organization for Women (NOW) is proud to co-sponsor SB 1301 (Kuehl), The Reproductive Privacy Act. SB 1301 would ensure California women's access to safe and legal abortion.

SB 1301 would increase access to safe and early non-surgical abortion methods by allowing qualified health practitioners, such as physician's assistants and nurse practitioners, to provide mifepristone (RU 486) under physician supervision. SB 1301 would also delete obsolete provisions in current law that have been found to be unconstitutional and unenforceable by the courts and would establish a contemporary reproductive rights law that protects a woman's legal right to choose an abortion.

The Reproductive Privacy Act would ensure that women in California have the freedom to exercise their constitutional right to make decisions regarding their own reproductive health. Please vote AYE on this very important measure when it is heard in the Assembly Health Committee.

Sincerely,

Elizabeth McGovern
Legislative Director

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Est. 1972 with 80,000 members and donors, and chapters throughout the state
Megan Seely President ❖ Helen Grieco Executive Director ❖ Elizabeth McGovern Legislative Director ❖ Elena Perez Program Di-----
Rosemary DaSilva Political Affairs Director ❖ Mandy Benson Field Director ❖ Nikki Ragsac Executive Assistant
Rachel Allen Public Relations Director ❖ Iris Caplan Development Director

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JUN 20 2002
CALIFORNIA LEGISLATIVE OFFICE
HEALTH COMMITTEE

ACLU
AMERICAN CIVIL LIBERTIES UNION

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Valerie Small Navarro, *Legislative Advocate*
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June 18, 2002

Chair Helen Thomson and Members
Assembly Health Committee
State Capitol
Sacramento, CA 95814

Re: SB 1301 – Support

Dear Chair Thomson and Members:

The ACLU supports SB 1301, the Reproductive Privacy Act, which replaces the antiquated, archaic and unconstitutional provisions of the Therapeutic Abortion Act of 1967. In addition, SB 1301 provides women with greater access to early non-surgical abortions by allowing mid level practitioners, pursuant to their current scope of practice to provide mifepristone (RU-486) under physician supervision. Finally, SB 1301 makes California's abortion law consistent with the principles established by the United Supreme Court's 1973 *Roe v. Wade* decision, in which the United States Supreme Court recognized that the right to privacy protected a woman's right to choose an abortion.

Unconstitutional Provisions of the Therapeutic Abortion Act Should be Repealed

In 1967, Governor Reagan signed the Therapeutic Abortion Act.[1] Health & Safety Code Sections 25950-25954, now codified at Health & Safety Code Sections 123400-123450. As written, the Act established restrictive eligibility criteria for abortions, [2] stringent procedures for authorizing abortion, [3] requirements that abortions occur in accredited hospitals, requirements that only doctors perform abortions, and an absolute ban on abortion past the 20th week of pregnancy. Abortions unauthorized by the Act were felonies. People who performed abortions, women who obtained them, and people who assisted women in terminating pregnancies, were subject to incarceration. Penal Code Sections 274-276.

In November 1972, the California Supreme Court struck down the 1967 Act's eligibility criteria and authorization procedures. *People v. Barksdale*, 8 Cal. 3d 320 (1972). Essentially, Barksdale created abortion on request, but retained the Act's limits on who could perform abortions, where they took place, and limits on late abortions.

Three months later, the United States Supreme Court issued its landmark 1973 decisions recognizing abortion as a constitutional right. Those opinions made it clear that two of California's remaining restrictions on abortion-the 20-week limitation (*Roe v. Wade*, 410 U.S. 113 (1973)) and the hospitalization requirement (*Doe v. Bolton*, 410 U.S. 179 (1973))—were unconstitutional.

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Despite all these constitutional decisions, the California Legislature has never repealed any portion of the 1967 Act. The entire Act remains on the books. The Legislature has, over the years, passed new laws relating to abortion, which are codified with the Act. Some of those are inconsistent with provisions of the 1967 Act. [4]

Last year, the Legislature repealed the Penal Code provisions that make abortion a felony. [5] At the same time, the Legislature amended the Business & Professions Code to define as unprofessional conduct abortions performed or assisted by people acting outside the scope of valid licenses. This provision is also inconsistent with the Act's doctor-only restriction. Business & Professions Code Section 2253(b).

SB 1301 repeals those sections of the Therapeutic Abortion Act, that have been found unconstitutional, and replaces it with a law that reflects constitutional principles.

Current California Law Addressed by the Reproductive Privacy Act

California law now has two major restrictions on abortion: the doctor-only limit and the ban on post-20 week abortions. It is not clear whether either restriction is valid, because of conflicts between the 1967 Act and subsequent laws, constitutional problems, and arguably incorrect enforcement opinions from anti-choice Attorneys General.

1. Midlevel Practitioners Should be Able to Perform Non-Surgical Abortions When They Are Within Their Scopes of Practice

California statute says that only doctors may "perform, aid or assist or attempt" abortion. (Health & Safety Code Section 123405.) The law is not enforced as strictly and expansively as written; clinicians such as nurses assist with abortions. Moreover, the law cannot be reconciled, either with other sections of the abortion statute [6] or with California's laws governing other advanced practice clinicians. However, an Attorney General opinion by Dan Lungren says that the doctor-only law trumps all other inconsistent laws, and applies both to surgical and to medical abortions. 74 Ops. Cal. Atty. Gen. 101 (1991). This restriction made sense in 1967, when doctors were the only licensed professionals skilled in surgery, then the only procedure for terminating a pregnancy. However, changes in medicine and technology have rendered this restriction obsolete, inconsistent with laws governing all other health care, and unnecessary to ensure patient safety. With the licensing of advanced practice clinicians, such as physicians' assistants, certified nurse-midwives and nurse practitioners, California women should have expanded access to early, nonsurgical abortions delivered by qualified clinicians.

SB 1301 clarifies that midlevel practitioners - nurse practitioners, nurse midwives, and physician assistants -- acting within their scopes of practice may perform or assist in performing nonsurgical abortions, including providing mifepristone (RU-486), an early method of abortion. Abortion should not be treated differently from any other medical procedure. If a midlevel practitioner has the authority to administer medication under his or her scope of practice, then he or she should be able to do so in the abortion context.

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2. California's Standard on the Right to Choose an Abortion Should Conform with *Roe v. Wade*

The California statute says that no abortion past the 20th week of pregnancy is legal. (Health & Safety Code Section 123410.) However, this provision is unconstitutional as written. United States Supreme Court decisions establish that the California law is unconstitutional, for three reasons.

First, the state may not ban abortions before fetal viability. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973). Second, the state may not define fetal viability according to gestational age, but must allow for an individualized determination by the attending physician. *PlannedParenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976); *Colautti vFranklin*, 439 U.S. 379 (1979). Third, even after viability, the state may not force a woman to carry a pregnancy to term that jeopardizes her life or health. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973).

However, an Attorney General opinion by George Deukmejian says that the law may be enforced if interpreted to ban only abortions of viable fetuses with no life or health factors justifying the termination. 65 Ops. Cal. Atty. Gen. 261 (1982). We believe that the law is entirely void and unenforceable, and that, no time limit therefore currently exists on abortion in California. Two trial courts have agreed. [7]

The Reproductive Privacy Act imports the standards established by *Roe v. Wade* providing that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman." SB 1301 confirms California's commitment to the rights set forth in the Supreme Court's history ruling.

With the composition of the Supreme Court likely to change soon, Californians, now more than ever, need to protect their right to reproductive privacy.

If you or your staff would like to discuss our comments, please call us.

Sincerely,

FRANCISCO LOBACO
Legislative Director

VALERIE SMALL NAVARRO
Legislative Advocate

cc: Hon. Shiela Kuehl and Consultant, Assembly Health Committee

[1] The Therapeutic Abortion Act replaced California's old 1850 criminal abortion law, which permitted abortion only to save the life of the pregnant woman. Two years later, in a criminal

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prosecution of a doctor arising out of the old criminal law, the California Supreme Court ruled the old law unconstitutional. *People v. Belous*, 71 Cal. 2d 954 (1969).

[2] Abortions were permitted only where the pregnancy seriously jeopardized a woman's physical or mental health or where the pregnancy resulted from rape or incest, which had been promptly reported to law enforcement authorities.

[3] The Act required hospital committees to approve each abortion.

[4] For example, the laws on who can perform or assist in performing abortions cannot be reconciled. See discussion below.

[5] SB 370 (2000)-Burton.

[6] The limitation is inconsistent with Health & Safety Code Section 123420, granting the right to refuse to "directly participate" in abortion to "a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility or clinic." In addition, Business and Professions Code Section 2253(b) authorizes discipline against unlicensed practitioners who "perform or assist" in performing abortions; authorized practitioners are defined to include any person with "a valid, unrevoked, and unsuspended license to practice as a physician and surgeon...or...a certificate obtained in accordance with some other provision of law that authorizes him or her to perform or assist in performing a surgical abortion."

[7] The ACLU filed two lawsuits arguing that the Attorney General could not redraft the 1967 law, that the absolute 20-week ban was plainly unconstitutional and that it was up to the Legislature to write a new law if it wanted to do so. California's statutory 20-week limit is neither valid nor enforceable. The Superior Courts, in Sacramento and Los Angeles, both agreed with us. Because the Attorney General failed to appeal either decision, no binding statewide precedent exists. However, the trial court opinion from Los Angeles is cited in *Feminist Women's Health Center v. Philobosian*, 157 Cal. App. 3d 1076, 1084 n. 3 (1982).

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COMMITTEE ON MORAL CONCERNS

Art Croney, *Executive Director/Lobbyist*
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P.O. Box 2768
Sacramento, CA 95812

JUN 20 2002
HEALTH COMMITTEE

June 19, 2002

Assembly Health Committee

Please vote **NO** on **SB 1301** (Kuehl); abortion.

This bill would recast California's Therapeutic Abortion Act, calling it the Reproductive Privacy Act and bringing it in line with U.S. Supreme Court decisions starting with Roe v. Wade. The bill anticipates, prematurely we believe, the overturning of the Supreme Court's 1973 judgment. The Committee On Moral Concerns opposes this bill for the following reasons:

1. The bill finds and declares that "every individual possesses a fundamental right of privacy with respect to personal reproductive decisions" (page 4, lines 26-28). We agree. However, the bill later conflicts with its own declaration. Biologically, the life of the individual human being begins at the moment of conception. The bill gives certain individuals (women) the right to abort and fatally interfere with the reproductive right of other individuals (their sons and daughters who are living and growing, but not yet born).

2. The bill defines pregnancy as "beginning with the implantation of an embryo." This is politically convenient, but ungrounded in scientific reality. We know where babies come from. Pregnancy begins at conception. That is the principle on which in vitro fertilization works. Also, conception is the *only* time in our lives when our fathers had any contribution to our genetic characteristics. When an embryo fails to exit the fallopian tube this becomes a life-threatening ectopic *pregnancy*. Doctors and scientists who are unmotivated by politics know that pregnancy occurs before implantation in the uterus.

3. The bill defines "viability" as the point when the human fetus may survive outside the uterus. This is another political term lacking real meaning. As individuals, some of us could survive outside the womb earlier than others, just as some of us could survive in the wilderness longer. Again, the bill's findings recognize individuals, but subsequent language clouds that recognition.

4. The bill allows abortion any time before birth. Under Section 123468 (b) (2), aborting a viable human fetus is legal, if continuing the pregnancy until birth poses "no risk to the life *or health* of the pregnant woman." Since there is no such thing as an absolutely risk-free childbirth, under the bill, there is no such thing as an illegal abortion, as long as the abortionist is licensed.

Art Croney

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A-816AP2 - 91

ACLU

AMERICAN CIVIL LIBERTIES UNION

June 18, 2002

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Chair Helen Thomson and Members
Assembly Health Committee
State Capitol
Sacramento, CA 95814

Re: SB 1301 – Support

Dear Chair Thomson and Members:

The ACLU supports SB 1301, the Reproductive Privacy Act, which replaces the antiquated, archaic and unconstitutional provisions of the Therapeutic Abortion Act of 1967. In addition, SB 1301 provides women with greater access to early non-surgical abortions by allowing mid level practitioners, pursuant to their current scope of practice to provide mifepristone (RU-486) under physician supervision. Finally, SB 1301 makes California's abortion law consistent with the principles established by the United Supreme Court's 1973 *Roe v. Wade* decision, in which the United States Supreme Court recognized that the right to privacy protected a woman's right to choose an abortion.

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In November 1972, the California Supreme Court struck down the 1967 Act's eligibility criteria and authorization procedures. *People v. Barksdale*, 8 Cal. 3d 320 (1972). Essentially, Barksdale created abortion on request, but retained the Act's limits on who could perform abortions, where they took place, and limits on late abortions.

Three months later, the United States Supreme Court issued its landmark 1973 decisions recognizing abortion as a constitutional right. Those opinions made it clear that two of California's remaining restrictions on abortion-the 20-week limitation (*Roe v. Wade*, 410 U.S. 113 (1973)) and the hospitalization requirement (*Doe v. Bolton*, 410 U.S. 179 (1973))—were unconstitutional.

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ACLU OF SAN DIEGO & IMPERIAL COUNTIES
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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Despite all these constitutional decisions, the California Legislature has never repealed any portion of the 1967 Act. The entire Act remains on the books. The Legislature has, over the years, passed new laws relating to abortion, which are codified with the Act. Some of those are inconsistent with provisions of the 1967 Act. [4]

Last year, the Legislature repealed the Penal Code provisions that make abortion a felony. [5] At the same time, the Legislature amended the Business & Professions Code to define as unprofessional conduct abortions performed or assisted by people acting outside the scope of valid licenses. This provision is also inconsistent with the Act's doctor-only restriction. Business & Professions Code Section 2253(b).

SB 1301 repeals those sections of the Therapeutic Abortion Act, that have been found unconstitutional, and replaces it with a law that reflects constitutional principles.

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The Reproductive Privacy Act imports the standards established by *Roe v. Wade* providing that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman." SB 1301 confirms California's commitment to the rights set forth in the Supreme Court's history ruling.

With the composition of the Supreme Court likely to change soon, Californians, now more than ever, need to protect their right to reproductive privacy.

If you or your staff would like to discuss our comments, please call us.

Sincerely,

FRANCISCO LOBACO
Legislative Director

VALERIE SMALL NAVARRO
Legislative Advocate

cc: Hon. Shiela Kuehl and Consultant, Assembly Health Committee

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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917



Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California – American Civil Liberties Union – American College of Obstetricians and Gynecologists IX, – California Abortion & Reproductive Rights Action League – California Family Health Council – California Medical Association – California National Organization for Women – California Nurses Association – Hadassah – League of Women Voters of California – Planned Parenthood Affiliates of California – California Commission on the Status of Women –

Dear Friends and Partners:

With the United States Supreme Court poised to change its composition and the *Roe v. Wade* decision in peril, it's more important than ever we protect our constitutionally guaranteed right of reproductive choice. That's why we ask that your organization join us in supporting the Reproductive Privacy Act, a contemporary abortion law for California that replaces the antiquated and unconstitutional provisions of the Therapeutic Abortion Act of 1967.

The bill accomplishes four primary objectives for Californians: to provide women greater access to early non-surgical abortions, to remove unnecessary restrictions on abortion procedures, to delete unconstitutional provisions of the Therapeutic Abortion Act and to reaffirm privacy rights established by *Roe v. Wade*.

It is imperative that California clarifies in the law precisely what reproductive privacy rights the women and men of this great state enjoy. The Reproductive Privacy Act will ensure that California has a constitutionally firm abortion law that would protect privacy rights, now and in the future. By treating abortion consistently with other medical procedures, SB 1301 will ensure the safety of reproductive health care while eliminating the stigma the law has historically placed on the option of abortion services, replacing it with a declaration in support of the constitutional right to privacy and individual choice.

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Pro Choice Coalition of Santa Clara County

Contact Name: Judy Purrington, Chair

Address: 1691 The Alameda
San Jose, Ca 95126

Phone/Fax: 408-972-8042

E-Mail: JudyPurrington@aol.com

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

ATTENTION GAYLE TILLER FROM CLAUDIA SIT DOE

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: D.A.W.N. DEMOCRATIC ACTIVISTS FOR WOMEN NOW

Contact Name: CAROL GARVEY – PRESIDENT

Address: P.O. Box 6614
San Jose, CA 95150

Phone/Fax: (408) 275-6981

E-Mail:

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

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Organization: WOMEN'S HEALTH COLLABORATIVE

Contact Name: Reneta MARTIN

Address: 663 13th STREET, 2nd FLOOR
OAKLAND CA 94612

Phone/Fax: (510) 452-0322 (510) 452-0075

E-Mail: Rmartin@whc online.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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Organization: Communi Care Health Centers

Contact Name: Robin Affrime

Address: PO Box 1260

Davis CA 95617

Phone/Fax: (530) 758-3498 / 530-758-2109 (fax)

E-Mail: RFAffrime@communicareclinics.com

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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Organization: National Health Law Program

Contact Name: Lourdes Rivera

Address: 2639 S. LA Cienega Blvd
Los Angeles, CA 90034

Phone/Fax: 310/204-6010 ; 310/204-0891:F

E-Mail: rivera@healthlaw.org

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Support SB 1301 (Kuehl)

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Organization: Physicians for Reproductive Choice and Health

Contact Name: Carrie Stern and Naomi Sicherman

Address: 55 East 34th St., 10th Floor

New York, NY 10018

Phone/Fax: (646) 366-1890 / (646) 366-1897

E-Mail: carrie@prch.org and naomi@prch.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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Organization: Los angeles County Young Democrats

Contact Name: Samantha Mariner

Address: 900 Wilshire Blvd #1030

Los Angeles CA 90017

Phone/Fax: 213.624.1030 / 213.624.0123

E-Mail: ~~Sam~~ President@lacyd.org

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Organization: WEST HOLLYWOOD DEMOCRATIC CLUB

Contact Name: RUTH WILLIAMS - LEGISLATIVE VICE PRES.

Address: 7548 LEXINGTON AVE.
WEST HOLLYWOOD 90046

Phone/Fax: 323-874-0728 FAX: 323-874-7322

E-Mail: RUTHWH@AOL.COM

Attn: Katie
From: PPLA
Antionette

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

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Organization: Santa Cruz County Womens Commission

Contact Name: Andrea Smith

Address: 701 Ocean St., Rm 30
Santa Cruz, CA 95060

Phone/Fax: (831) 454-2772

E-Mail: commissions@co.santa-cruz.ca.us

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Organization: Planned Parenthood Mar Monte

Contact Name: Justine Sarver

Address: 1691 The Alameda
San Jose CA 95126

Phone/Fax: 916 446-5037 x133
916 446-3274

E-Mail:

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

I thought I had submitted this, but apparently not —

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Organization: Reproductive Right Network of Santa Cruz County

Contact Name: Cynthia Mathews

Address: 111 Pacific Ave, Suite 210
Santa Cruz, Ca 95060

Phone/Fax: 831/ 425-1551 x 29

E-Mail: 831/ 425-0217

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Organization: Medical Students For Choice, University of Southern California Chapter

Contact Name: Kristina Rios

Address: 107 S. Hdliston #205

Pasadena, CA 91106

Phone/Fax: 626-796-3098

E-Mail: krios@usc.edu

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Organization: Democratic Women of santa barbara county

Contact Name: barbie deutsch, president

Address: po box 90655
santa barbara, ca 93190

Phone/Fax: (805) 967-6665 (both)

E-Mail: lady-go-blue@cox.net / DemWomenSB@cox.net

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Organization: Older Women's League

Contact Name: Betty Perry

Address: 926 - J Street, Ste 1117
Sacramento, CA 95814

Phone/Fax: P- (916) 444-2526 F (916) 441-[illegible]

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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Organization: SANTA CRUZ WOMENS HEALTH CENTER

Contact Name: DORIAN SEAMSTER

Address: 250 LOCUST ST.

SANTA CRUZ CA 95060

Phone/Fax: 831 427-3500 831 457-2486

E-Mail: dorianseamster@hotmail.com

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

To: Katie Innsworthy

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

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Organization: Voters For Choice

Contact Name: DORKA KEEHN

Address: 2821 Bush
SF CA 94115

Phone/Fax: 415 885-3240

E-Mail: dkeehn@voters4choice.org

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Organization: NATIONAL COUNCIL OF JEWISH WOMEN

Contact Name: RUTH WILLIAMS

Address: 543 No. FAIRFAX AVE
LA CA 90036

Phone/Fax: 323-651-2930 323-651-5348 FAX

E-Mail: RUTH_W@NCJWLA.ORG.

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Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: National Women's Political Caucus of CA

Contact Name: Sharon A. Ball

Address: 2033 Manzanita Dr.
Oakland, CA 94611

Phone/Fax: 510-339-2546 (707-929-1545 Fax)

E-Mail: kball@earthlink.net

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Organization: PEOPLE FOR THE AMERICAN WAY

Contact Name: DERRICK SANDERS

Address: 2852 SOUTH BARRINGTON AVENUE
LOS ANGELES, CA 90064-3613

Phone/Fax: 310-478-6657 ; 310-478-5857 fax

E-Mail: dsanders@pfaw.org

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Organization: National Latina Alliance

Contact Name: Mireya Gutierrez

Address: P. O. Box 712066

Los Angeles, CA. 90071

Phone/Fax: (213) 626 0571 x 286 213 623-7755

E-Mail: mireyagutierrezrkm@yahoo.com

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County of Santa Cruz

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ, FIRST DISTRICT | ELLEN PIRIE, SECOND DISTRICT | MARDI WORMHOUDT, THIRD DISTRICT | TONY CAMPOS, FOURTH DISTRICT | JEFF ALMQUIST, FIFTH DISTRICT

March 20, 2002

Governor Gray Davis
State Capitol
Sacramento, CA 95814

RE: SUPPORT FOR SENATE BILL 1301

Dear Governor Davis:

I am writing at the direction of the Santa Cruz County Board of Supervisors to convey our unanimous support for Senate Bill 1301, the Reproductive Privacy Act. This is a comprehensive piece of legislation that would replace California's outdated Therapeutic Abortion Act of 1967. The Bill accomplishes four primary objectives for California, including the following:

- Provides greater access to non-surgical abortion services by allowing mid-level practitioners, pursuant to their current scope of practice, to provide RU-486 [mifepristone] under physician supervision.

- Clarifies the role of health care professionals by updating the Business and Professions Code to reflect current abortion practices which permit health care providers acting within their existing scopes of practice to perform and assist in the provision of surgical and non-surgical abortions.

- Deletes language in current State law that has been found unconstitutional in either state or federal courts.

- Reaffirms privacy rights established by the U.S. Supreme Court in *Roe v. Wade*, which granted women a legal right to choose an abortion.

Our Board concurs with the language in the bill that "every individual possesses a fundamental right of privacy with respect to reproductive decisions, including (A) the fundamental right to

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choose or refuse birth control, and (B) the fundamental right to choose to bear a child or obtain an abortion." The health of women in California is linked to access to reproductive health care services without barriers. Accordingly, we urge your support for Senate Bill 1301.

Sincerely,

JANET K. BEAUTZ, Chairperson
Board of Supervisors

JKB:ted
Attachment

cc: Clerk of the Board
Senator Sheila Kuehl
Senator Bruce McPherson
Assembly Speaker pro Tem Fred Keeley
Assembly Member Simon Salinas
Health Services Agency Administrator
Santa Cruz County Public Health Commission
Santa Cruz County Women's Commission
Santa Cruz County Children and Youth Commission

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Organization: National Council of Jewish Women, Los Angeles

Contact Name: Barbara Dobkin

Address: NCJW/LA
543 N. Fairfax, L.A., Ca. 90036

Phone/Fax: Ruth Williams - (323) 651-2930

E-Mail: babsdobkin@hotmail.com
and Advocacy@ncjwla.org

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Yes, please add our name to the attached letter. SB 1301 is needed this year! **Please fax this form back to PPAC at (916) 441-0632 and/or calling us at 916-446-5247.**

Organization: San Luis Obispo County Pro-Choice Coalition

Contact Name: Amanda B. Root

Address: PO Box 12244

San Luis Obispo, CA 93406

Phone/Fax: _____

E-Mail: _____

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Organization: RELIGIOUS COALITION FOR REPRODUCTIVE CHOICE

Contact Name: REV ANN HAYMAN

Address: PO BOX 5396

VAN NUYS CA 91409

Phone/Fax: 310 346-7622

E-Mail: alhayman@sbcglobal.com

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Organization: Women's Lifecycle Medical Group

Contact Name: Sharleen Beverly, MD, FACOG

Address: 501 E. Hardy St., Suite 400

Inglewood, CA 90301

Phone/Fax: 310-673-4004 (O) 310-673-4499 (F)

E-Mail: Shebe3588@aol.com

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Organization: T.H.E. Clinic Inc

Contact Name: Donzella Lee

Address: 14051 Lemoli Avenue
Hawthorne CA 90251

Phone/Fax: (323) 295-6571 x 3004 / (323) 295-6577

E-Mail: dpiee@thechnic.org

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Organization: Ventura County Reproductive Rights Network

Contact Name: Marc Wilde

Address: P. O. Box 6601

Ventura, CA 93006-6601

Phone/Fax: (805) 677-5560

E-Mail: marc.wilde@ppfa.org

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Organization: 27th AD Democratic Committee

Contact Name: Debra Whitmore - Vice Chairperson

Address: 106 Loma Place
Aptos CA 95003

Phone/Fax: 831-688-4393

E-Mail: debbie@debrawhitmore.com

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Organization: ACLU - Santa Cruz County Chapter

Contact Name: Carol Fuller

Address: 513 Olive St
Santa Cruz, Ca 95060

Phone/Fax: 831-423-2354 (phone)

E-Mail: fulkins@aol.com

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Organization: Democratic Central Committee of Santa Cruz County

Contact Name: Carol Fuller

Address: 513 Olive St
Santa Cruz, Ca. 95060

Phone/Fax: 831-423 2356 (phone)

E-Mail: fulkins@aol.com

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Organization: CENTRAL COAST ALLIANCE FOR HEALTH

Contact Name: LINDA A BERGTHOLD

Address: 375 ENCINAL ST, SUITE A
SANTA CRUZ, CA 95060

Phone/Fax: Tel (831) 457-3850 ext 4302 / Fax 831 466 4310

E-Mail: LBERGTHOLD@CCAH-ALLIANCE.ORG

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Organization: Zero Population Growth of Monterey Bay

Contact Name: Royce Fincher

Address: 113 Van Ness Ave., Santa Cruz CA 95060-4207

Phone/Fax: 831.426.9300/ 831.426.9309

E-Mail: RoyceFincher@pacbell.net

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Peoples Democratic Club of Santa Cruz

Contact Name: Bill Malone

Address: 519 Walnut Ave
Santa Cruz CA 95060

Phone/Fax: 831-420-1133

E-Mail: Bill Malone @ pacbell.net

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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Organization: Santa Cruz County Women's Commission
Contact Name: Andrea Smith
Address: 701 Ocean St., Rm 30
Santa Cruz, CA 95060
Phone/Fax: (831) 454-2772
E-Mail: Commissions@co.santa-cruz.ca.us

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Organization: League of Women Voters of the Monterey Peninsula

Contact Name: LORITA FISHER

Address: 586 COLTON ST.

MONTEREY, CA 93940

Phone/~~Fax~~: 831/375-8301

E-Mail: glenlorfisher@webtv.net

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Organization: Womens Health Specialists

Contact Name: Shauna Heckert

Address: 1469 Humboldt Rd. Ste 200
Chico, Ca. 95928

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Organization: San Jose/South Bay National Organization for Women

Contact Name: Connie Springer

Address: PO Box 611957
San Jose CA 95161-1957

Phone/Fax: General-(408) 297-4NOW, Connie Springer (408) 269-4943

E-Mail: cfspringer@earthlink.net

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Organization: California Pro-Choice Republicans

Contact Name: Karla Henderlong

Address: 1285 Boulevard Way

Walnut Creek, CA 94595

Phone/Fax: (925)946-9455 fax (925)946-9715

E-Mail: karlah@pacbell.net

TOTAL P.02

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Organization: WOMEN LAWYERS of SANTA CRUZ COUNTY

Contact Name: ADRIENNE STEIN

Address: P.O. BOX 737

SANTA CRUZ, CA 95061-0737

Phone/Fax: (831) 475-3079

E-Mail: asjd@cruzio.com

Adrienne Stein
Attorney At Law
4026 Winkle Avenue
Santa Cruz, CA 95065

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Organization: Choice USA, UC Santa Cruz Chapter

Contact Name: Adrienne Ruberas / Amber Parker

Address: UCSC - Cowell #609
301 McLaughlin Drive
Santa Cruz, Calif. 95064

Phone/Fax: 415-531-1819

E-Mail: SuprSky182@aol.com

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Organization: League of Women Voters, Santa Cruz County

Contact Name: Laura Grossman

Address: 3641 Pringle LN.
Soquel, CA. 95073

Phone/Fax: (831) 475-9442

E-Mail: drmarc@cruzio.com

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ATTENTION GAYLE TILLER FROM CLAUDIA SH 0/PS

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Organization: Santa Clara County Democratic Central Committee

Contact Name: Steve Preminger, Chair

Address: 2102 Almaden Road #107
San Jose, Ca 95125

Phone/Fax: 408 445-4567

E-Mail: steve@atwork.org

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Organization: UNITED Nations Assoc. Santa Cruz Co

Contact Name: Henny Van Duy

Address: 3460 Hara Dr.
Aptos CA 95003

Phone/Fax: 831 - 688-5105

E-Mail: United Nations Assoc of Santa Cruz Co.

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Womens International League for Peace and Freedom, Monterey County

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Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247

Organization: Womens International League for Peace and Freedom WILPF Monterey County

Contact Name: Darby Mose Worth

Address: 8250 el Camino Estrada
Carmel, Ca. 93923

Phone/Fax: 831- 624-7494

E-Mail: _____

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Organization: Green Party, Monterey County

Contact Name: Darby Moss Worth

Address: 8250 el Camino Estrada
Carmel, Ca. 93923

Phone/Fax: 831-624-7494

E-Mail: ---

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Organization: Lawyers Club of San Diego

Contact Name: Kate Yavenditti

Address: 964 Fifth Ave., Ste. 210

San Diego, CA 92101

Phone/Fax: 619 544-1478

E-Mail:

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

MPC Qs Program

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Organization: Women's Programs, Monterey Peninsula College

Contact Name: Phyllis Peet, Director

Address: 980 Fremont St

Monterey Ca 93940

Phone/Fax: 646 4276

E-Mail: -

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

ORCUTT REPUBLICAN CLUB

P.O.BOX 2007 ORCUTT. CALIFORNIA 93455

April 2, 2002

To our State Legislator

The vast majority of the 97 members of this organization feel strongly that the Reproductive Privacy Act (S.B. 1301 by Sen. Kuehl) is our chance to protect the right to choose in California even if the Supreme Court overturns Roe v. Wade. Therefore, we strongly urge you to support this legislation to protect safe and legal abortions in California.

Legal abortions are preferred to illegal back alley abortions as were common prior to Roe v. Wade.

The recent vote on this matter, and resolution to forward this letter ran 81 for and 16 opposed. Those who were not present at our recent monthly meeting were sent ballots on this and other matters to be mailed in and tabulated. All members thus were included.

Sincerely,

Carlos Cardona

Carlos Cardona, Pres.
O. R. C.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

Dear Friends and Partners:

With the United States Supreme Court poised to change its composition and the *Roe v. Wade* decision in peril, it's more important than ever we protect our constitutionally guaranteed right of reproductive choice. That's why we ask that your organization join us in supporting the Reproductive Privacy Act, a contemporary abortion law for California that replaces the antiquated and unconstitutional provisions of the Therapeutic Abortion Act of 1967.

The bill accomplishes four primary objectives for Californians: to provide women greater access to early non-surgical abortions, to remove unnecessary restrictions on abortion procedures, to delete unconstitutional provisions of the Therapeutic Abortion Act and to reaffirm privacy rights established by *Roe v. Wade*.

It is imperative that California clarifies in the law precisely what reproductive privacy rights the women and men of this great state enjoy. The Reproductive Privacy Act will ensure that California has a constitutionally firm abortion law that would protect privacy rights, now and in the future. By treating abortion consistently with other medical procedures, SB 1301 will ensure the safety of reproductive health care while eliminating the stigma the law has historically placed on the option of abortion services, replacing it with a declaration in support of the constitutional right to privacy and individual choice.

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: AAUW (American Association of University Women)

Contact Name: Greta Neelsen

Address: 330 Loyola Drive

Aptos CA 95003

Phone/Fax: _____

E-Mail: _____

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Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California ~ American Civil Liberties Union ~ American College of Obstetricians and Gynecologists IX, ~ California Abortion & Reproductive Rights Action League ~ California Family Health Council ~ California Medical Association ~ California National Organization for Women ~ California Nurses Association ~ Hadassah ~ League of Women Voters of California ~ Planned Parenthood Affiliates of California ~ California Commission on the Status of Women ~

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Organization: AAUW

Contact Name: STEPHANIE WELLS

Address: 3905 WINKLE AVE.

SANTA CRUZ, CA -95065

Phone/Fax: 831-476-4488

E-Mail:

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

American Association of University Women, California – American Civil Liberties Union – American College of Obstetricians and Gynecologists IX, – California Abortion & Reproductive Rights Action League – California Family Health Council – California Medical Association – California National Organization for Women – California Nurses Association – Hadassah – League of Women Voters of California – Planned Parenthood Affiliates of California – California Commission on the Status of Women –

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Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: The Women's Foundation

Contact Name: Patti Chang, President & CEO

Address: 340 Pine St., Suite 302
San Francisco CA 94104

Phone/Fax: (415) 837-1113 (415) 837-1144

E-Mail: pattic@twfusa.org

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Valley Women's Club

Contact Name: Sheila DeLany

Address: PO Box 574
Ben Lomond Calif. 95005

Phone/Fax: (831) 336-4436

E-Mail:

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: AAUW (San Jose)
Contact Name: Denelle Fedor
Address: 101 Glen Eyrie Ave., #307
San Jose, CA 95125
Phone/Fax:
E-Mail:

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Reproductive Rights Coalition of Monterey County
Contact Name: Jean Richards, Chair
Address: PO Box 813
Monterey Ca. 93942
Phone/Fax: (831) 674-0688
E-Mail: webactivist@yahoo.com

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: National Org. for Women - Monterey Peninsula Chap.
Contact Name: Jean Richards
Address: 225 Larson Lane
Greenfield, Ca 93927
Phone/Fax:
E-Mail: Webactivist@yahoo.com

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Planned Parenthood Mar Monte
Contact Name: Eileen TREMAIN
Address: 1900 Garden Road, Ste 230
Monterey, CA 93940
Phone/Fax: 831-373-1709 x 17
E-Mail: eileen-tremain@ppmarmonte.org

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Democratic Women's Club
Contact Name: Shirley Prussin
Address: 2836 SLOAT ROAD
PEBBLE BEACH, CA 93953
Phone/Fax:
E-Mail:

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: Reproduction Rights Coalition
Contact Name: Shirley Prussin
Address: 1836 Sloat Road
PEBBLE BEACH, CA 93953
Phone/Fax:
E-Mail:

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Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: California Women Lawyers
Contact Name: Andrea Carlise - President-Elect
Address: 650 Howe Ave., Suite 555
Sacramento, CA 95825
Phone/Fax: (510) 205-1255 / (916) 646-3114 fax (916) 646-6469
E-Mail: AndreaCarlise@msn.com ; cwlsac@cwo.com

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: National Women's Political Caucus
Contact Name: SHIRLEY PRUSSIN
Address: 2836 SLOAT ROAD
PEBBLE BEACH, CA 93953
Phone/Fax:
E-Mail:

Yes, please add our name to the list of supporters. SB 1301 is needed this year!
Please fax this form to PPAC at (916) 441-0632 and/or call us at 916-446-5247.

Organization: ACLU
Contact Name: Shirley Prussin
Address: 2836 SLOAT ROAD
PEBBLE BEACH, CA 93953
Phone/Fax:
E-Mail:

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RECEIVED
JUN 19 2002
HEALTH COMMITTEE

SB 1301 (Kuehl) – Reproductive Privacy Act
Background Information

1. **Who is the source of the bill? Are they the sponsor? What person, organization, or governmental entity requested introduction?**

   Sponsor: Planned Parenthood
   Contact Person: Sue Dunlap (916) 446-5247 ext. 104

2. **Has a similar bill been before either this session or a previous session of the legislature? If so, please identify the session, bill number, summary of bill's contents, and disposition of the bill. (Use attachments if necessary)**

   No

3. **Have there been any interim hearings on the subject matter of the bill? If so, when?**

   No.

4. **Please attach a sheet explaining in detail the problem or deficiency in the present law which the bill seeks to remedy and how the bill resolves the problem. Please also list all witnesses you plan to have testify.**

   In 1967, Governor Ronald Reagan signed the Therapeutic Abortion Act, which expanded legal abortion in California under restrictive criteria. Most of those restrictions were subsequently ruled unconstitutional in the 1972 California Supreme Court case *People v. Barksdale*. Then the United States Supreme Court issued its landmark *Roe v. Wade* decision in 1973, bolstering California's recognition of abortion as a privacy right guaranteed by the Constitution of the United States. Though *Roe* and *Barksdale* have rendered much of the Therapeutic Abortion Act obsolete, the Act itself has never been repealed by the Legislature. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems.

   SB 1301, the Reproductive Privacy Act, cleans up that cryptic and often unconstitutional abortion code and ensures that California has a constitutionally sound abortion law that will protect privacy rights, now and in the future.

   Specifically, the bill:

   - **Deletes Unconstitutional Laws**
     SB 1301 deletes language in current state law that has been found unconstitutional in state and federal courts.

   - **Treats abortion like other comparable medical procedures**

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Today, abortions are singled out for regulation that doesn't apply even to more complex procedures. SB 1301 allows healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

- **Provides Women Greater Access to Early Non-Surgical Abortion Methods**
  SB 1301 will provide greater access to early abortion methods like mifepristone (RU-486) by eliminating arbitrary barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

- **Protects the Right to Choice in California**
  The Reproductive Privacy Act will protect Californians' fundamental right to choose a safe and legal abortion – even if the Supreme Court further reduces the federal protections contained in *Roe v. Wade.*

The people of California deserve a reproductive privacy law that mirrors their respect for the Constitution and their desire for reproductive freedom. In that spirit, SB 1301, the Reproductive Privacy Act, offers California a unique opportunity to once again take the lead in the national forum on the issues of reproductive choice.

5. **Please attach copies of any background material in explanation of the bill, or state where such material is available for reference by committee staff which would be helpful to the analysis of the bill.**

   Will attach Q & A Sheet.

6. **Please attach copies of letters of support or opposition from any group, organization, or governmental agency who has contacted you either in support or opposition to the bill.**

   Support:

   American Academy of Pediatrics, CA District
   American Association of University Women, California
   American Association of University Women, San Jose Branch
   American Association of University Women, Santa Cruz Branch
   American Civil Liberties Union
   American College of Obstetricians and Gynecologists, District IX
   American Medical Women's Association
   Board of Supervisors, County of Santa Cruz
   California Abortion & Reproductive Rights Action League
   California Church Impact
   California Commission on the Status of Women
   California Family Health Council
   California Medical Association
   California National Organization for Women
   California Nurses Association
   California Pro-Choice Republicans

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California Women Lawyers
California Women's Law Center
California Women's and Children's Health Coalition
Democratic Women of Santa Barbara County
Democratic Women's Club, Pebble Beach
Hadassah
Lambda Letters Project
League of Women Voters of California
Medical Students for Choice, University of Southern California Chapter
National Council of Jewish Women
National Health Law Program
National Latina Alliance
National Organization for Women, Monterey Peninsula Chapter
National Women's Political Caucus of California
Older Women's League
People for the American Way
Planned Parenthood Affiliates of California
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood: Shasta-Diablo
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
San Louis Obispo Counties
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
Valley Women's Club
Voters for Choice
Women Lawyers Association of Los Angeles
Women's Programs, Monterey Peninsula College
Workmen's Circle/Arbeter Ring (Southern California District)

Opposition:

California ProLife Council
Committee on Moral Concerns

7. **If you plan substantive amendments to this bill prior to hearing, please attach a detailed explanation of the substance of the amendments to be prepared.**
We have no plans to amend the bill.

STAFF PERSON TO CONTACT : Jennifer Richard 445-1353

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(1) Codifies RvW.

(2) Scope of reach
NP
NMW
PA

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California Church Impact

2715 K Street, Suite D
Sacramento, CA
95816

(916) 442-5447
(916) 442-3036 Fax
IMPACTinfo@calchurches.org
www.calchurches.org

Scott D. Anderson
Executive Director

RECEIVED
JUN 19 2002
HEALTH COMMITTEE

May 6, 2002

The Honorable Sheila Kuehl
California State Senate
P.O. Box 942848
Sacramento, CA 94248-0001 **RE: SB 1301**

Dear Senator Kuehl:

We at California Church Impact are writing in support of your bill, SB 1301, the Reproductive Privacy Act. We represent 1.5 million members within California who belong to19 Protestant and Orthodox denominations.

We are strongly committed to a woman's right to choose and support this bill as a significant clarification of California's current statutes on abortion. The bill establishes for us the same moral and ethical balance between the rights of women and the legal status of a viable fetus that is presented within the federal guidelines of *Roe v. Wade*. Consequently it provides the legal right for women to control their reproductive health especially during the period of gestation when the fetus is not yet viable. By removing archaic language authorizing a panel of physicians to make the determination about the justification for abortion for each woman, you have empowered women to follow their own conscience.

Furthermore, SB 1301 establishes important safety criteria to protect women from unsafe abortion providers

African Methodist Episcopal Church
African Methodist Episcopal Zion Church
American Baptist Churches of the West
Armenian Church of America
Christian Methodist Episcopal Church
Church of the Brethren
Christian Church (Disciples of Christ)
The Episcopal Church
Ethiopian Orthodox Church
Evangelical Lutheran Church in America
Greek Orthodox Church
Moravian Church in America
National Baptist Convention
Presbyterian Church (U.S.A.)
Reformed Church in America
Union of Orthodox Jewish
United Church of Christ
United Methodist Church
Women's Division of the United Methodist Church

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and provides women with options for medical forms of abortion that may be safer for her life and health.

We strongly adhere to the position that women have the obligation to consult only their own consciences and people of their own choice when making decisions concerning their reproductive health. We further believe women are capable of making the best decisions for their own lives and are trustworthy moral actors within that context.

Thank you for your presentation of this bill and for the improved medical, legal, and moral access to safe reproductive health care that SB 1301 will provide for all women in California.

Sincerely,

Elizabeth Sholes

Elizabeth Sholes
Public Policy Coordinator

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

May 6, 2002

Member of the State Senate
State Capitol
Sacramento, CA 95814

Dear Senator:

SENATE FLOOR ALERT — SB 1301 (Kuehl)

The California Commission on the Status of Women requests your "aye" vote on SB 1301. This measure would enact a constitutionally-sound reproductive rights law ensuring that a Californian's right to privacy and the decision to choose a safe and legal abortion are protected, now and in the future.

SB 1301 would increase access to early, non-surgical methods of abortion such as mifepristone (RU-486) by allowing healthcare providers, within their particular scope of practice, to perform or assist in the performance of surgical and non-surgical abortions. Further, SB 1301 would delete the unconstitutional and unenforceable provisions of existing state law that create confusion and inconsistency with regard to abortion.

Women's access to health care, including reproductive health care, has been a long-standing priority for the Commission. The Reproductive Privacy Act is critical to the preservation of a California woman's constitutional right to make decisions regarding her reproductive health. SB1301 would protect her fundamental right to privacy and ensure access to a safe and legal abortion.

For these reasons, we ask that you **vote "aye" on SB 1301.** If we can be of assistance to you, please contact our Executive Director, Mary Wiberg, or our Legislative Coordinator, Vicki Atwood, at 916-445-3173.

Sincerely,

Elmy Bermejo
Chairperson

cc: The Honorable Sheila Kuehl

(916) 445-3173 • (916) 322-9466 fax • info@women.ca.gov • www.women.ca.gov

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

May 1, 2002

The Honorable Dede Alpert, Chairperson
Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

Dear Senator Alpert:

Re: Support for SB 1301 (Kuehl) Reproductive Privacy Act

The California Commission on the Status of Women requests your "aye" vote on SB 1301. This measure would enact a constitutionally sound reproductive rights law ensuring that a Californian's right to privacy and the decision to choose a safe and legal abortion is protected, now and in the future.

SB 1301 would increase access to early, non-surgical methods of abortion such as mifepristone (RU-486) by allowing healthcare providers, within their particular scope of practice, to perform or assist in the performance of surgical and non-surgical abortions. Further, SB 1301 would delete the unconstitutional and unenforceable provisions of existing state law that create confusion and inconsistency with regard to abortion.

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For these reasons, we ask that you **vote "aye" on SB 1301.** If we can be of any assisance to you, please contact our Executive Director, Mary Wiberg, or our Legislative Coordinator, Vicki Atwood, at 916-445-3173.

Sincerely,

Elmy Bermejo

Elmy Bermejo, Chairperson

cc: The Honorable Sheila Kuehl
Members/Senate Appropriations Committee

(916) 445-3173 • (916) 322-9466 fax • info@women.ca.gov • www.women.ca.gov

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Initial FDA Data Reveals RU 486 Had Dangerous Complications
Source: Cybercast News Service; February 19, 2002

Washington, DC – The dangeous abortion pill RU-486 can have serious side effects and complications, but the federal government's requirements for data collecting appear to do little to help advocates on either side of the abortion issue make their case about the safety of the drug.

Food and Drug Administration data obtained by the Cybercast News Service through the Freedom of Information Act (FOIA) regarding reports of adverse side effects using RU-486 show only 33 individual reports entered into the FDA database during a four year period between November 1997 and November 2001.

The data represent "side effects and complications arising from the use of RU-486 during the time it has been available in the U.S. Market," wrote Debra P. Taub, lead consumer safety officer for the Department of Health and Human Services.

People taking one or both of the two-drug combination included men and women, ranging from teenagers to people in their 70s.

The data do not specifically state the purpose for taking the drug; some women appeared to be taking the drug to produce an abortion, based on the dosages taken, while others used the drug to treat medical problems unrelated to abortion.

Four men and 29 women were among those whose cases were referred to the FDA, and the data show that five people for whom an adverse side effect was reported died, with RU-486 or one of its components listed by doctors as the primary suspected cause of death.

Among those reported deaths, three were men, representing 75 percent of all the men included in the adverse side effect report.

Other adverse effects for which doctors listed RU-486 as the primary suspect included nausea, dizziness, excessive bleeding, life-threatening blood clots and infection, and respiratory distress.

Not counting the two women who died with RU-486 listed as the prime suspect, responses to the various side effects among women included 22 who required hospitalization or "intervention to prevent permanent impairment," and five who experienced "life threatening" or "other" medical outcomes.

Federal law requires all drug manufacturers to make such reports to the Food and Drug Administration (FDA). It's a reporting system the FDA and others say helps regulators keep an eye on a drug's side effects. However, doctors are not required to report their findings to drug manufacturers, a regulatory loophole that renders the data collecting spotty and far from complete.

John Diggs, a pro-life Massachusetts doctor and advisor to the Family Research Council, sees cause for alarm in the FDA data. "The number one

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MAY 15

OPPOSE NON-PHYSICIAN ABORTIONS

OPPOSE SB 1301

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CALIFORNIA PROLIFE

May 15, 2002

SENATE FLOOR ALERT
RE: SB 1301—Reproductive Privacy Act

Support Senator Ray Haynes' Amendments to Restore Provisions for "Physician-Only" Abortions

SB 1301 could be on the Senate floor as soon as Thursday, May 16. At that time Senator Ray Haynes will offer amendments to restore the 35 year old requirement that only physicians may perform abortions in California, which would otherwise be removed by SB 1301.

Regardless of whether you intend to support or oppose the Reproductive Privacy Act, we beseech you to seriously consider support for Senator Haynes' amendments.

One can't help but see great irony in degrading the quality of care for women seeking abortions at the very time we are reading almost daily about the difficulties of protecting health care patients from unscrupulous providers.

There is no evidence that drug-induced abortions are any safer than surgical abortions. Indeed there is evidence to the contrary, including 2 recent deaths—and not enough experience with drug abortions to consider broadening the pool of abortion providers to those with even less medical expertise than those providing abortions today.

On April 19, the federal Food and Drug Administration posted a letter on their website from Danco Laboratories, the manufacturer of RU 486, informing physicians that two women have died after RU 486 abortions, and one 21 year-old suffered cardiac arrest—a rare occurrence in a woman that age. The two who died suffered a bacterial infection in one case and a uterine rupture due to an undiagnosed ectopic pregnancy in the other. Another near-fatal bacterial infection, and two additional uterine ruptures due to undiagnosed ectopic pregnancies prompted Danco and the FDA to release the warning and ask physicians to report any additional "adverse events."

Danco claims these "adverse events" are statistically insignificant, yet they will not reveal how many RU 486 abortions have been performed. What we do know is that RU 486 has not been popular among either physicians or patients, so the number that have been performed could be significant to judge whether these "adverse events" are significant or not. We do know that the most common complication of use of RU 486 is hemorrhage—hemorrhage serious enough to require transfusions in some cases.

Let's not create an even larger pool of unscrupulous providers to prey upon the poorer members of our communities, and our teenagers, who often seek abortion services without the benefit of the counsel of the people who care about them most—their parents.

Please support the Haynes amendments to SB 1301. Let's not put California at the forefront of further jeopardizing the lives of the women.

California ProLife Council, Inc.
The California Affiliate of the National Right to Life Committee
2306 J Street Suite 200 • Sacramento, CA 95816
916.442-8315 • (fax) 916.441.7508 www.californiaprolife.org

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Reports Posted on Abortion Pill (21-year-old woman has heart attack after using it)

http://www.newsday.com/news/politics/wire/sns-ap-abortion-pill0417apr17.story?coll=sns%2Dap%2Dpolitics%2Dheadlines
AP | April 17, 2002, 6:55 PM EDT | Associated Press

WASHINGTON –

A 21-year-old woman had a heart attack three days after using the abortion pill mifepristone, but there is no way to know if the pill played a role, health officials said Wednesday.

In a letter to doctors, the pill's distributor also said two women had serious infections after using the abortion pill – one of whom was a Canadian woman reported by doctors last fall to have died.

Again, there is no way to know if mifepristone had a role, the Food and Drug Administration said in a fact sheet posted on its Internet site Wednesday.

But the FDA ordered the reports released for another reason: concern that doctors were giving the abortion pill to some women with ectopic pregnancies – something they are not supposed to do. The agency has three reports ruptured tubal pregnancies among mifepristone users, one of whom died.

Ectopic, or tubal, pregnancies are potentially life-threatening situations where a fertilized egg lodges outside the woman's uterus. Surgical treatment is required.

While the abortion pill will not have any effect on an ectopic pregnancy, the concern is that a woman with the kind of pain that signals a life-threatening rupture might falsely attribute the pain to the abortion pill and delay seeking care.

Doctors are supposed to rule out ectopic pregnancies before prescribing the abortion pill, but they can be hard to diagnose.

"This is a reminder to clinicians and women to be alert to the risk of ectopic pregnancy," said FDA drug chief Dr. Janet Woodcock.

The FDA approved use of the controversial abortion pill in September 2000, based on both U.S. studies and 12 years of usage in Europe that showed serious side effects were extremely rare.

Mifepristone's distributor, Danco Laboratories, said the six reports were an "extremely small incidence" of problems. It refused to say how many women have used the abortion pill in its 17 months on the market.

Mifepristone blocks the action of a hormone vital for an embryo to develop. Women then must use a second drug, misoprostol, that causes contractions to then expel the dead embryo. The process only works in the first seven weeks of pregnancy.

*

On the Net:

Food and Drug Administration: http://www.fda.gov/medwatch/new.htm

4/18/2002

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Abortion drug falls short of forecasts

Few doctors prescribe pill; most women don't want it

By Susan Duerksen
UNION-TRIBUNE STAFF WRITER

May 6, 2001

It took a decade of political, legal and corporate maneuvering to bring "the French abortion pill" to U.S. soil.

During that time, the drug gained almost mythic stature as a force that would rock the abortion world, making the procedure easier, more private and more widely available. Now, the drug mifepristone -- dubbed RU-486 by its French manufacturer -- has been legally approved for use in the United States for seven months.

But so far, most women don't want it and few doctors will touch it.

Aside from providing a new option for some women seeking an abortion, the drug seems unlikely to alter abortion politics or practice, at least not for some time.

Advocates and opponents have long expected the pill would increase the number of doctors providing abortions.

But in San Diego County and elsewhere, doctors who weren't providing surgical abortions are in no hurry to offer medical, drug-induced abortions.

Even many abortion providers are not prepared to offer Mifeprex, the drug's U.S. brand name. As of this week, 35 of Planned Parenthood's 127 U.S. affiliates have used it.

The two Planned Parenthood clinics in San Diego County began offering Mifeprex at the beginning of March, for women as much as seven weeks pregnant. In the first six weeks of the drug's availability at the clinics, 28 women opted for it, out of roughly 900 having first-trimester abortions.

At Family Planning Associates in La Mesa, the drug is available for those in the first nine weeks of pregnancy. Since February, it has been used for about 10 percent of first-trimester abortions, said an official at the clinic's corporate office in Chicago.

"For whatever reason, people have thought that once mifepristone was approved it would move abortion out of the clinics and every doctor would be able to provide it for their own patients," said Dr. Mitchell Creinin, a University of Pittsburgh obstetrician-gynecologist who helped test the drug for U.S. approval.

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"It's ridiculous," he said. "It takes a lot of commitment and involvement (by physicians). It's much easier to provide surgical abortion."

One reason the drug is troublesome for doctors is that it's usually fairly hard on the women taking it.

Although a surgical abortion is over in a few minutes, a medical abortion involves days or weeks of bleeding, including at least several hours of severe cramping. In effect, it's an induced miscarriage.

Doctors must dispense the pill at their offices, monitor the process and make sure the patients come back for required follow-up visits. And they must arrange backup surgical abortions when the pill fails, as it does in one of every 20 to 50 cases.

"There are a lot more problems with using that (drug) than the public's been led to believe," said Dr. Terry Winegar, president of the San Diego Academy of Family Physicians. "I haven't heard of anybody that's even interested in prescribing it."

Dr. George Kung, president of the San Diego Gynecological Society, agreed that doctors are wary of mifepristone, partly because of the arduous process and partly because it is just as likely as surgical abortion to attract pickets and possibly threats of violence.

"It's just such a headache for physicians," he said.

Anti-abortion organizations object to mifepristone just as much as to surgical abortion.

"RU-486 is still just another method of abortion," said Jan Carroll, legislative analyst for the California Pro-Life Council. "We consider any new technique for taking the lives of the tiniest members of the human family to be a problem."

An anti-abortion Web site unrelated to the Pro-Life Council has begun an "RU-486 Registry," listing the names of doctors believed to offer the drug "in hopes that the American people will overcome the demonic forces presently enslaving this nation and will finally prosecute the purveyors of death listed herein."

Visitors to the Web site are asked to call local doctors' offices and ask whether they offer RU-486, then submit the information for the list.

Kung said his office gets a few phone calls a month asking for the drug and that his staff refers women to Planned Parenthood or Family Planning Associates. But many women decide they aren't interested when they hear that the process takes multiple visits and a lot of discomfort, he said.

Most women seeking abortion prefer to have it over with quickly and choose the surgical method, many doctors and clinic administrators said.

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However, for some women, the pill is emotionally and psychologically easier because it is closer to a natural miscarriage, said Diana Maracich, director of medical abortion for Family Planning Associates. It also offers more privacy because the abortion occurs at home.

"Some women feel it gives them more power over the procedure," said Mary Kelly, a nurse practitioner who supervises medical abortions at San Diego County Planned Parenthood. "Some women feel it's less invasive -- they don't want a physician using instruments to do the procedure."

Most who want mifepristone have researched it, Kelly said. For those who first hear about the new option when they come in seeking an abortion, "it's not that impressive to them," she said.

Melissa Grant, regional director of Greater Iowa Planned Parenthood, one of the first to offer medical abortion, said women are counseled that they will "feel pretty miserable" for at least a few hours. She said all who have chosen the new method have been satisfied.

"There's a certain myth out there still that this is a magic pill and will make everything go away," Grant said. "Once a woman is pregnant, there is no easy and comfortable way to have that change. We're just pleased to be able to offer another method to women."

The U.S. distributor of Mifeprex, New York-based Danco Laboratories, declined to give information on sales of the drug, which is used in one-third of all abortions in France.

Other reasons for the slow acceptance of the new method are the Bush administration's stated qualms about the drug, legislation that would restrict the use of Mifeprex and the fact that insurers are just beginning to cover it, said Vickie Saporta, executive director of the National Abortion Federation.

She said the federation will increase its efforts to train doctors in the new method this year and expects a gradual increase in the number providing it.

"It's even taking awhile for current abortion providers to get comfortable with offering the new service," Saporta said.

"Women who want it will seek it out. For some women, it's absolutely the right option."

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DANCO LABORATORIES

PO Box 4816
New York, NY 10185

infoline 1.877.4.EARLY OPTION

www.earlyoptionpill.com

April 19, 2002

Dear Health Care Provider:

This letter is to inform you of new safety information with regard to prescribing Mifeprex® and to remind you of your responsibility to report certain events and provide patient counseling, as stated in your Prescriber's Agreement.

New Safety Information

We have received a small number of reports of ruptured ectopic pregnancies (including one death from hemorrhage due to a ruptured ectopic pregnancy). As you will recall, Mifeprex* and misoprostol are not an effective treatment of ectopic pregnancy. Confirmed or suspected ectopic pregnancy is a contraindication for the use of Mifeprex and should be ruled out prior to initiating Mifeprex treatment. Because ectopic pregnancy may be present despite your best efforts to rule it out before starting Mifeprex treatment, you should be mindful of the possibility of an ectopic pregnancy throughout the treatment period and have a plan for its management.

Two cases of serious systemic bacterial infection (one fatal) following treatment with Mifeprex and misoprostol have been reported. While it is known that menstruation, childbirth and abortion (whether spontaneous, surgical or medical) create conditions that can result in infection, we do not believe that Mifeprex and misoprostol present a special risk of infection. Although serious infection in medical abortion is rare, we ask that you be alert to this possibility if your patients report symptoms or have signs of infection.

We have also received a report of myocardial infarction occurring in a 21 year old woman three days following use of Mifeprex and misoprostol.

No causal relationship between any of these events and use of Mifeprex and misoprostol has been established.

Approved Regimen

As a reminder, the Food and Drug Administration (FDA) approved regimen for administration of Mifeprex is:

- 600 mg Mifeprex taken orally in the office or clinic
- 400 mcg of misoprostol taken orally in the office or clinic 48 hours after the Mifeprex.

The FDA has not reviewed or approved other dosing regimens for early termination of pregnancy.

* Mifeprex is a registered trademark of Danco Laboratories, LLC.

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Reporting Adverse Events and On-going Pregnancy

We would like to remind you to report any Serious Adverse Events (SAEs) associated with Mifeprex use to the address below. Serious adverse events include death, hospitalization, blood transfusion, and other major events. In the case of on-going pregnancy following treatment with the Mifeprex regimen (approximately 1%), you should also notify us if the patient chooses to proceed with her pregnancy.

Please provide a brief clinical synopsis by writing, calling, or emailing:

Medical Director
Danco Laboratories, LLC
P.O. Box 4816
New York, NY 10185
Medicaldirector@earlyoptionpill.com
Toll free at 1-877-4 Early Option (1-877-432-7596)

We may need to contact you to obtain additional information, so please include your contact information. The following information is helpful when you report adverse events: age of patient; gestational age; dosages and means of administration of all medications, including concomitant medications; clinical information on the patient, including relevant past medical history, laboratory results, and health care course; and final outcome of the patient.

Patient Counseling

We would like to remind you of the importance of helping your patients understand the benefits and risks of the Mifeprex regimen. During the first of three office visits, please give the patient a Medication Guide to read, as well as a Patient Agreement to read and sign. (These materials are included with each Mifeprex order. If you need additional copies, please contact our authorized distributor.)

As you are aware, bleeding and cramping are a normal part of the process; women can expect bleeding or spotting for an average of 9 to 16 days. Women may experience bleeding that is similar to, or greater than, a heavy period. In the U.S. clinical trials, about 1 out of 100 women required a surgical procedure, identical to the procedure for miscarriage, to stop heavy bleeding. If you do not plan to provide this procedure yourself, you must have made arrangements with someone who will and provide this contact information to your patient. Other side effects that may occur include nausea, headache, vomiting, diarrhea, dizziness, fatigue and back pain.

For more information about Mifeprex, visit www.earlyoptionpill.com or call the 24-hour hotline, toll-free at 1-877-4 Early Option (1-877-432-7596). If you have an emergent question, a physician will usually return your call within the hour. For general questions, our Medical Director typically returns calls within 24 hours.

Sincerely,
Danco Laboratories, LLC

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

choose or refuse birth control, and (B) the fundamental right to choose to bear a child or obtain an abortion." The health of women in California is linked to access to reproductive health care services without barriers. Accordingly, we urge your support for Senate Bill 1301.

Sincerely,

JANET K. BEAUTZ, Chairperson
Board of Supervisors

JKB:ted
Attachment

cc: Clerk of the Board
Senator Sheila Kuehl
Senator Bruce McPherson
Assembly Speaker pro Tem Fred Keeley
Assembly Member Simon Salinas
Health Services Agency Administrator
Santa Cruz County Public Health Commission
Santa Cruz County Women's Commission
Santa Cruz County Children and Youth Commission

3018A6

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BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 72-2002

On the motion of Supervisor Wormhoudt
duly seconded by Supervisor Almquist
the following resolution is adopted.

RESOLUTION SUPPORTING SB 1301 (KUEHL) RELATING TO REPRODUCTIVE PRIVACY ACT

WHEREAS, the United States Supreme Court 's landmark Roe v. Wade decision of 1973 and the subsequent California Supreme Court case People v. Barksdale have rendered the California Therapeutic Abortion Act of 1967 unconstitutional and obsolete; and

WHEREAS, the California Therapeutic Abortion Act has not been repealed by the California Legislature; and

WHEREAS, a reproductive privacy law that mirrors respect for the Constitution and desire for reproductive freedom is needed in California; and

WHEREAS, the role of health care providers relative to reproductive services should be clarified and made consistent with their current legal scope of practice in California; and

WHEREAS, the health of women in California is linked to access to reproductive health care services without barriers; and

WHEREAS, Senate Bill 1301 has been introduced in the California legislature and has gained wide support among health care organizations and California legislators; and

WHEREAS, Senate Bill 1301 would enact a Reproductive Privacy Act that would establish legislation to remove antiquated State law, clarify the current scope of practice for medical care providers and reaffirm individual rights for reproductive freedom and privacy in the state of California.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the Board of Supervisors of the County of Santa Cruz, hereby supports Senate Bill 1301 and urges the Honorable Gray Davis, Governor of California, to sign into law Senate Bill 1301.

PASSED AND ADOPTED, by the Board of Supervisors of the County of Santa Cruz, State of California, this 12th day of March, 2002 by the following vote.

AYES: SUPERVISORS Pirie, Wormhoudt, Campos, Almquist, Beautz
NOES: SUPERVISORS None
ABSTAIN: SUPERVISORS None

Chairperson of the Board

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ATTEST:

CLERK OF THE BOARD

APPROVED AS TO FORM:

Assistant County Counsel

Distribution:

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County Women's Commission
County Children's Commission

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26



JOAN HALL
CONSULTING

Health Care Policy & Government Relations

Fax

To:	Jennifer Richard, Consultant C/O Senator Kuehl's Office	**From:**	Joan M. Hall, JD Legislative Advocate ACOG, District IX
Fax:	916.324.4823	**Pages:**	2
Phone:		**Date:**	3/24/02
Re:	SB 1301 Support Letter	**CC:**	

Urgent ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

Respond to:

Joan Hall Consulting
Phone: 415.258.9926
Fax: 415.256.9704
jhallconsulting@attbi.com

• **Comments:**

Hi Jennifer:

Attached is ACOG's support letter with reference to the clarifying amendment re nonsurgical abortions. I will provide the Senate Judiciary Committee with a copy of this letter and send individualized letters to each member of the Senate Judiciary Committee. Unfortunately, I have to be in D.C. on April 9th, but CMA will be available and I'll talk with Shannon. If you have any questions, please do not hesitate to contact me.

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ACOG District IX
1401 21st Street, Suite 370
Sacramento, CA 95814
(916) 442-8865
FAX: (916) 442-8857
e-mail: district9@acog.org

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS
DISTRICT IX
WOMEN'S HEALTH CARE PHYSICIANS

March 24, 2001

The Honorable Sheila James Kuehl
State Capitol, Room 4032
Sacramento, CA 95814

RE: Senate Bill 1301 (Kuehl)
ACOG-IX Position: SUPPORT

Dear Senator Kuehl:

The American College of Obstetricians and Gynecologists, District IX representing more than 4300 practicing California physicians, is pleased to support your Senate Bill 1301.

SB 1301 will repeal provisions of California's Therapeutic Abortion Act which have been found unconstitutional by the courts and replace them with a clear statement regarding a woman's right to choose. This measure also clarifies the role of healthcare professionals in the provision of abortion services. It is our understanding that an amendment will be taken to the bill on April 9th in the Senate Judiciary Committee which clarifies what is meant by nonsurgical abortion. We strongly support the inclusion of this amendment.

ACOG, District IX believes that termination of a pregnancy before viability is a medical matter between a woman and her physician. We support access to care for all individuals, irrespective of financial status, and the availability of all reproductive options. We also oppose any unnecessary regulations or laws which serve to limit or delay access to care, such as those provisions of the Therapeutic Abortion Act which are being repealed by this measure.

For these reasons, we have taken a **SUPPORT** position on SB 1301 and applaud your leadership in ensuring that women have access to abortion services. If I may provide you with additional information regarding our position on this measure, please do not hesitate to contact me at 415.258.9926.

Sincerely,

Joan M. Hall, JD
Legislative Advocate

Cc: Consultant to Senate Judiciary Committee

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Marianne Hockenberry
Albany, CA

March 28, 2002

Senator Martha Escutia, Chair
Senate Judiciary Committee
State Capitol, Room 5080
Sacramento, CA 95814

RE: SB 1301, AAP-CA Position: Support

Dear Senator Escutia,

The California District of the American Academy of Pediatrics (AAP-CA), representing all four California AAP Chapters, strongly supports the proposed legislation SB 1301, which will be heard in the Senate Judiciary Committee on **Tuesday, April 9th.** SB 1301 would clarify and protect the right of women to obtain an abortion in California, and the rights and responsibilities of health care providers who perform abortions.

Individual California pediatricians, like other individuals, have differing personal views on abortion. However, as an organization of professional health care providers to children and adolescents, the AAP-CA believes strongly that no legal medical procedure should be made inaccessible. Those who oppose abortion may voice that opposition and educate others about their views. However, it is not appropriate for abortions to be singled out for unnecessary regulation (unrelated to the medical procedure itself). SB 1301 would alter and clarify California law to allow healthcare providers, acting within their existing scopes of practice, to both perform and assist in the performance of surgical and non-surgical abortions.

Current California law relating to abortion is inconsistent and in places incoherent. Yet the health care system is intended to serve each individual according to his or her needs, rather than to act as an enforcer for the will of any interest group. SB 1301 would make the laws accessible and consistent so that choice is not blocked. **Please vote Aye on SB 1301 when it is heard in Senate Judiciary Committee on April 9, 2002.**

Sincerely,

Robert Black

Robert Black, MD
Chair, AAP-CA State Government Affairs Committee

cc: Senate Judiciary Committee
Kris Calvin, MA, AAP-CA Executive Director
Jackie Miller, Legislative Advocate
Jo Ann Madigan (CalWACHC)
Katie Trueworthy (Planned parenthood)

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From the office of:

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WOMEN
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Executive Office
650 Howe Ave., Suite 555
Sacramento, CA 95825
Phone: (916) 646-3114
Fax: (916) 646-6469
E-mail: cwlsac@cwo.com
www.cwl.org

APR 2 - 2002

RECEIVED
APR 4 2002

March 28, 2002

Senator Sheila James Kuehl
Senate Judiciary Committee
State Capitol, Room 4032
Sacramento, CA 95814

RE: Support for SB 1301 (Kuehl)

Dear Senator Kuehl:

California Women Lawyers (CWL) supports Senate Bill 1301, by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please vote Aye on SB 1301 when it is heard in Senate Judiciary Committee on April 9, 2002.

Sincerely,

Belynda Reck

Belynda Reck
President

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Affiliates: *Asian Pacific American Women Lawyers Alliance; Black Women Lawyers Association of Los Angeles; Contra Costa County Bar Association -Women Section; Fi... Kern County Women Lawyers; Lawyers Club of San Diego; Monterey County Women Lawyers; Napa County Women Lawyers; Orange County Women Lawyers... Lawyers Alliance; Santa Barbara Women Lawyers; Santa Clara County Bar Association Women Lawyers Committee; Solano County Women in the Law; Wom... Lawyers' Association of San Luis Obispo County; Women Lawyers of Alameda County; Women Lawyers Section of San Mateo County Bar Association, Women Lawyers of L... Sacramento; Women Lawyers of Santa Cruz County; Women Lawyers of Ventura County*

OWL/CA

Older Women's League of California
926 J Street #1117, Sacramento CA 95814
• (916) 444-2526 - Fax (916) 441-1881

VOICES OF MIDLIFE AND OLDER WOMEN

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April 1, 2002

Support for SB 1301 Kuehl

The Honorable Sheila Kuehl
State Capitol
Sacramento, Ca 95814

Dear Senator Kuehl:

The Older Women's League is pleased to be a supporter of SB 1301, The Reproductive Privacy Act. This bill does many things to clarify the rights of women and the roles of professionals in the matter of abortion. With the availability of new methods of abortion, this bill is especially important. The provisions of this bill will eliminate barriers which could impede care. The privacy provisions of this bill reflect the respect for women's rights, a premise which is inherent in the bill.

We have come to understand that this is an unending subject for dissent. We believe that stating the issue as clearly as this bill does will work well for the future of California women.

Yours truly,

Betty Perry

Betty Perry
Public Policy Director
Older Women's League of California

National Office, 666 Eleventh St., N.W., Suite 700, Washington, DC

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

April 3, 2002

The Honorable Martha Escutia, Chairperson
Senate Judiciary Committee
State Capitol, Room 2205
Sacramento, CA 95814

Dear Senator Escutia:

Re: Support for SB 1301 (Kuehl) Reproductive Privacy Act

The California Commission on the Status of Women requests your "aye" vote on SB 1301. This measure would enact a constitutionally sound reproductive rights law ensuring that a Californian's right to privacy and the decision to choose a safe and legal abortion is protected, now and in the future.

SB 1301 would increase access to early, non-surgical methods of abortion such as mifepristone (RU-486) by allowing healthcare providers, within their particular scope of practice, to perform or assist in the performance of surgical and non-surgical abortions. Further, SB 1301 would delete the unconstitutional and unenforceable provisions of existing state law that create confusion and inconsistency with regard to abortion.

Women's access to health care, including reproductive health care, has been a long-standing priority for the Commission. The Reproductive Privacy Act is critical to the preservation of a California woman's constitutional right to make decisions regarding her reproductive health. SB1301 would protect her fundamental right to privacy and ensure access to a safe and legal abortion.

For these reasons, we ask that you **vote "aye" on SB 1301.** If we can be of any assisance to you, please contact our Executive Director, Mary Wiberg, or our Legislative Coordinator, Vicki Atwood, at 916-445-3173.

Sincerely,

Elmy Bermejo

Elmy Bermejo, Chairperson

cc: The Honorable Sheila Kuehl
Members/Senate Judiciary Committee

(916) 445-3173 • (916) 322-9466 fax • info@women.ca.gov • www.women.ca.gov

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STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

April 3, 2002

The Honorable Martha Escutia, Chairperson
Senate Judiciary Committee
State Capitol, Room 2205
Sacramento, CA 95814

Dear Senator Escutia:

Re: Support for SB 1301 (Kuehl) Reproductive Privacy Act

The California Commission on the Status of Women requests your "aye" vote on SB 1301. This measure would enact a constitutionally sound reproductive rights law ensuring that a Californian's right to privacy and the decision to choose a safe and legal abortion is protected, now and in the future.

SB 1301 would increase access to early, non-surgical methods of abortion such as mifepristone (RU-486) by allowing healthcare providers, within their particular scope of practice, to perform or assist in the performance of surgical and non-surgical abortions. Further, SB 1301 would delete the unconstitutional and unenforceable provisions of existing state law that create confusion and inconsistency with regard to abortion.

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For these reasons, we ask that you **vote "aye" on SB 1301.** If we can be of any assisance to you, please contact our Executive Director, Mary Wiberg, or our Legislative Coordinator, Vicki Atwood, at 916-445-3173.

Sincerely,

Elmy Bermejo

Elmy Bermejo, Chairperson

cc: The Honorable Sheila Kuehl
Members/Senate Judiciary Committee

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Francisco Lobaco, *Legislative Director*
Valerie Small Navarro, *Legislative Advocate*
Rita M. Egri, *Legislative Assistant*

1127 Eleventh Street, Suite 531
Sacramento, CA 95814
Telephone: (916) 442-1036
Fax: (916) 442-1745

April 1, 2002

The Honorable Shiela Kuehl
State Capitol, Room 4032
Sacramento, CA 95814

Re: SB 1301 -- Support

Dear Senator Kuehl:

The ACLU supports SB 1301, the Reproductive Privacy Act, which replaces the antiquated archaic and unconstitutional provisions of the Therapeutic Abortion Act of 1967. In addition, SB 1301 provides women with greater access to early non-surgical abortions by allowing mid level practitioners, pursuant to their current scope of practice to provide mifepristone (RU-486) under physician supervision. Finally, SB 1301 makes California's abortion law consistent with the principles established by reaffirms the United Supreme Court's 1973 *Roe v. Wade* decision, in which the United States Supreme Court established recognized that the right to privacy protected a woman's right to choose an abortion.

Unconstitutional Provisions of the Therapeutic Abortion Act Should be Repealed

In 1967, Governor Reagan signed the Therapeutic Abortion Act. [1] Health & Safety Code Sections 25950-25954, now codified at Health & Safety Code Sections 123400-123450. As written, the Act established restrictive eligibility criteria for abortions, [2] stringent procedures for authorizing abortion, [3] requirements that abortions occur in accredited hospitals, requirements that only doctors perform abortions, and an absolute ban on abortion past the 20th week of pregnancy. Abortions unauthorized by the Act were felonies. People who performed abortions, women who obtained them, and people who assisted women in terminating pregnancies, were subject to incarceration. Penal Code Sections 274-276.

In November 1972, the California Supreme Court struck down the 1967 Act's eligibility criteria and authorization procedures. *People v. Barksdale*, 8 Cal. 3d 320 (1972). Essentially, Barksdale created abortion on request, but retained the Act's limits on who could perform abortions, where they took place, and limits on late abortions.

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ACLU OF SOUTHERN CALIFORNIA
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ACLU OF SAN DIEGO & IMPERIAL COUNTIES
Landa Hills, *Executive Director*
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Three months later, the United States Supreme Court issued its landmark 1973 decisions recognizing abortion as a constitutional right. Those opinions made it clear that two of California's remaining restrictions on abortion-the 20-week limitation (*Roe v. Wade*, 410 U.S. 113 (1973)) and the hospitalization requirement (*Doe v. Bolton*, 410 U.S. 179 (1973))--were unconstitutional.

Despite all these constitutional decisions, the California Legislature has never repealed any portion of the 1967 Act. The entire Act remains on the books. The Legislature has, over the years, passed new laws relating to abortion, which are codified with the Act. Some of those are inconsistent with provisions of the 1967 Act. [4]

Last year, the Legislature repealed the Penal Code provisions that make abortion a felony. [5] At the same time, the Legislature amended the Business & Professions Code to define as unprofessional conduct abortions performed or assisted by people acting outside the scope of valid licenses. This provision is also inconsistent with the Act's doctor-only restriction. Business & Professions Code Section 2253(b).

SB 1301 repeals those sections of the Therapeutic Abortion Act, that have been found unconstitutional, and replaces it with a law that reflects constitutional principles.

Current California Law Addressed by the Reproductive Privacy Act

California law now has two major restrictions on abortion: the doctor-only limit and the ban on post-20 week abortions. It is not clear whether either restriction is valid, because of conflicts between the 1967 Act and subsequent laws, constitutional problems, and arguably incorrect enforcement opinions from anti-choice Attorneys General.

1. Midlevel Practitioners Should be Able to Perform Non-Surgical Abortions When They Are Within Their Scopes of Practice

California statute says that only doctors may "perform, aid or assist or attempt" abortion. (Health & Safety Code Section 123405.) The law is not enforced as strictly and expansively as written; clinicians such as nurses assist with abortions. Moreover, the law cannot be reconciled, either with other sections of the abortion statute [6] or with California's laws governing other advanced practice clinicians. However, an Attorney General opinion by Dan Lungren says that the doctor-only law trumps all other inconsistent laws, and applies both to surgical and to medical abortions. 74 Ops. Cal. Atty. Gen. 101 (1991). This restriction made sense in 1967, when doctors were the only licensed professionals skilled in surgery, then the only procedure for terminating a pregnancy. However, changes in

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medicine and technology have rendered this restriction obsolete, inconsistent with laws governing all other health care, and unnecessary to ensure patient safety. With the licensing of advanced practice clinicians, such as physicians' assistants, certified nurse-midwives and nurse practitioners, California women should have expanded access to early, nonsurgical abortions delivered by qualified clinicians.

SB 1301 clarifies that midlevel practitioners - nurse practitioners, nurse midwives, and physician assistants -- acting within their scopes of practice may perform or assist in performing nonsurgical abortions, including providing mifepristone (RU-486), an early method of abortion. Abortion should not be treated differently from any other medical procedure. If a midlevel practitioner has the authority to administer medication under his or her scope of practice, then he or she should be able to do so in the abortion context.

2. California's Standard on the Right to Choose an Abortion Should Conform with *Roe v. Wade*

The California statute says that no abortion past the 20th week of pregnancy is legal. (Health & Safety Code Section 123410.) However, this provision is unconstitutional as written. United States Supreme Court decisions establish that the California law is unconstitutional, for three reasons. First, the state may not ban abortions before fetal viability. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973). Second, the state may not define fetal viability according to gestational age, but must allow for an individualized determination by the attending physician. *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52 (1976); *Colautti v. Franklin*, 439 U.S. 379 (1979). Third, even after viability, the state may not force a woman to carry a pregnancy to term that jeopardizes her life or health. *Roe v. Wade*, 410 U.S. 113 (1973); *Doe v. Bolton*, 410 U.S. 179 (1973).

However, an Attorney General opinion by George Deukmejian says that the law may be enforced if interpreted to ban only abortions of viable fetuses with no life or health factors justifying the termination. 65 Ops. Cal. Atty. Gen. 261 (1982). We believe that the law is entirely void and unenforceable, and that, no time limit therefore currently exists on abortion in California. Two trial courts have agreed. [7]

The Reproductive Privacy Act imports the standards established by *Roe v. Wade* providing that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman." SB 1301 confirms California's commitment to the rights set forth in the Supreme Court's history ruling.

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With the composition of the Supreme Court likely to change soon, Californians, now more than ever, need to protect their right to reproductive privacy.

If you or your staff would like to discuss our comments, please call us.

Sincerely,

FRANCISCO LOBACO
Legislative Director

VALERIE SMALL NAVARRO
Legislative Advocate

cc: Members and Consultant, Senate Judiciary Committee

[1] The Therapeutic Abortion Act replaced California's old 1850 criminal abortion law, which permitted abortion only to save the life of the pregnant woman. Two years later, in a criminal prosecution of a doctor arising out of the old criminal law, the California Supreme Court ruled the old law unconstitutional. *People v. Belous*, 71 Cal. 2d 954 (1969).

[2] Abortions were permitted only where the pregnancy seriously jeopardized a woman's physical or mental health or where the pregnancy resulted from rape or incest, which had been promptly reported to law enforcement authorities.

[3] The Act required hospital committees to approve each abortion.

[4] For example, the laws on who can perform or assist in performing abortions cannot be reconciled. See discussion below.

[5] SB 370-Burton.

[6] The limitation is inconsistent with Health & Safety Code Section123420, granting the right to refuse to "directly participate" in abortion to "a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility or clinic." In addition, Business and Professions Code Section 2253(b) authorizes discipline against unlicensed practitioners who "perform or assist" in performing abortions; authorized practitioners are defined to include any person with "a valid, unrevoked, and unsuspended license to practice as a physician and surgeon...or...a certificate obtained in accordance with some other provision of law that authorizes him or her to

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perform or assist in performing a surgical abortion."

[7] The ACLU filed two lawsuits arguing that the Attorney General could not redraft the 1967 law, that the absolute 20-week ban was plainly unconstitutional and that it was up to the Legislature to write a new law if it wanted to do so. California's statutory 20-week limit is neither valid nor enforceable. The Superior Courts, in Sacramento and Los Angeles, both agreed with us. Because the Attorney General failed to appeal either decision, no binding statewide precedent exists. However, the trial court opinion from Los Angeles is cited in *Feminist Women's Health Center v. Philobosian*, 157 Cal. App. 3d 1076, 1084 n. 3 (1982).

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APR 1

March 28, 2002

The Honorable Martha Escutia, Chair
Senate Judiciary Committee
State Capitol, Room 5080
Sacramento, California 95814

RE: SB 1301 (Kuehl) – SUPPORT
Senate Judiciary Committee - April 9, 2002

Dear Senator Escutia:

The California Nurses Association supports **Senate Bill 1301**, by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

We urge your **"Aye" vote on SB 1301.**

Sincerely,

Vicki Bermudez

Vicki Bermudez, RN
Regulatory Policy Specialist

Cc: Members, Senate Judiciary Committee
Consultant
Senator Sheila Kuehl

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PEOPLE FOR THE AMERICAN WAY

By Facsimile and Mail
March 27, 2002

Hon. Sheila Kuehl
Senate Judiciary Committee
Capitol Building No. 4032
Sacramento, California 95814

Re: California Reproductive Privacy Act - Senate Bill 1301

Dear Senator Kuehl:

We are writing on behalf of People For the American Way and our more than 50,000 California members in strong support of Senate Bill 1301, the California Reproductive Privacy Act. For over twenty years, People For the American Way has worked to defend our nation's commitment to fundamental civil rights and constitutional liberties, including women's reproductive rights. SB 1301 will help secure and promote the privacy and reproductive rights of California women and we urge the Senate Judiciary Committee to support this important legislation.

The California Reproductive Privacy Act ("the Act") would repeal outdated state law provisions restricting a woman's right to choose that have been found unconstitutional in court and would replace them with an explicit recognition and protection of privacy rights established by the U.S. Supreme Court in its 1973 Roe v. Wade decision. The Act explicitly protects the right to choose or refuse birth control and the right to bear a child or to terminate an unwanted pregnancy prior to viability and in cases where necessary to protect the life and health of the woman. While People For the American Way is working hard along with others to ensure that a future Supreme Court will not reverse Roe v. Wade and undermine the right to privacy, the threat is real and it makes sense for California to add its significant voice to this fight and to secure these rights for its residents for generations to come.

In addition, the California Reproductive Privacy Act would increase women's access to early and safe methods of terminating an unwanted pregnancy, including the use of mifepristone also known as RU-486 and other "emergency contraceptives." The Act would remove unwarranted restrictions that had been placed at an earlier time on the ability of nurses and other health practitioners to dispense medicine and to assist in the performing of abortions within the scope of their practice,

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performing of abortions within the scope of their practice, licenses and certificates as authorized by law. These outdated restrictions had singled out procedures related to abortion and applied unnecessary regulations that are not applicable to much more complex medical functions and procedures. SB 1301 would ensure that qualified health care professionals, acting within the existing scope of their practice, would be able to treat patients in the area of reproductive health as they do in other medical areas.

In sum, SB 1301 is a sound and important piece of legislation that will help protect the privacy rights and reproductive health of California women. We urge you to pass SB 1301 out of committee and to support the enactment of this legislation as soon as possible.

Sincerely,

Ralph G. Neas
President

Sincerely,

Julie Burton
California Director

Cc: Members of the Senate Judiciary Committee

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DEMOCRATIC WOMEN of SANTA BARBARA COUNTY

Jean

APR -5

April 2, 2002

The Honorable Martha Escutia, Chair
Senate Judiciary Committee
State Capitol, Room 5080
Sacramento, CA 95814

RE: Support for SB 1301 (Kuehl)

Dear Senator Escutia:

At a recent board meeting, Democratic Women of Santa Barbara County voted to endorse SB 1301 by Senator Kuehl. This bill will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

As you know, SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please vote Aye on SB 1301 when it is heard in Senate Judiciary Committee on April 9, 2002.

Sincerely,

Barbie Deutsch

Barbie Deutsch
President

cc: Senator Jack O'Connell
Assemblymember Hannah-Beth Jackson
Senator Sheila Kuehl ✓

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P.O. Box 90655 Santa Barbara CA 93190 ❖ (805) 568-5932 DemWomen

CRUZ M. BUSTAMANTE
Lieutenant Governor
State of California

April 8, 2002

The Honorable Sheila Kuehl
State Capitol, Room 4032
Sacramento, CA 95814

Dear Senator Kuehl:

As **CO-SPONSOR** of **SB 1301,** I am writing to express my **SUPPORT** for your bill – which establishes the Reproductive Privacy Act.

SB 1301 is a critical advance in ensuring California's women their fundamental right to privacy. The provisions outlined in this bill provide greater freedom for women by allowing them the right to choose whether or not to accept birth control and whether to give birth or obtain an abortion.

By deleting the provisions of the existing Therapeutic Privacy Act that require approval for an abortion by a committee of medical staff, SB 1301 gives more confidentiality to women. Eliminating the requirement of approval leaves the responsibility and decision-making power of reproductive health in the hands of California's women.

This legislation also removes the state from playing a role in a woman's decision about her body, as well as making it the policy of the state that every woman has the fundamental right to privacy. Allowing women the right to make their own reproductive decisions is an essential element of privacy.

Again, I offer my support of SB 1301 and congratulate you in your efforts to increase the rights and options of California's women. Thank you for authoring this important piece of legislation.

Sincerely,

Cruz M. Bustamante

CRUZ M. BUSTAMANTE
Lieutenant Governor

cc: Ms. Kathy Kneer, Director
Planned Parenthood Affiliates of California

CMB/KM:jl

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CALIFORNIA
CATHOLIC
CONFERENCE

ARCHDIOCESES OF LOS ANGELES AND SAN FRANCISCO
DIOCESES OF FRESNO, MONTEREY, OAKLAND, ORANGE, SACRAMENTO, SAN BERNARDINO, SAN DIEGO, SAN JOSE, SANTA ROSA AND STOCKTON
BYZANTINE CATHOLIC EPARCHY OF VAN NUYS, MARONITE CATHOLIC EPARCHY OF OUR LADY OF LEBANON OF LOS ANGELES

April 3, 2002

Honorable Martha Escutia
Chair, Senate Judiciary Committee
California State Capitol, Room 5080
Sacramento, CA 95814

RE: SB 1301 (Kuehl) Reproductive Privacy Act

Dear Senator Escutia,

The California Catholic Conference opposes SB 1301.

The "Therapeutic Abortion Act" is still in the statute books for California and most citizens in this state think that it is a reasonable law that reflects current abortion practice. However, except for the requirement that a licensed physician perform an abortion and the "conscience clause" exemption for practitioners, the Courts have judged much of the entire 1971 Act unconstitutional.

SB 1301 would explicitly make "abortion-on-demand" legal in California, signaling a dramatic change in the status of abortion law—from not banned to affirmed. SB 1301 would delineate that California not only permits abortion to be practiced without restrictions, but that California legally enshrines it as good public practice and policy. SB 1301 would rename the law the "Reproductive Privacy Act," thereby equating surgical abortion with other issues classified as "reproductive," such as contraception, sterilization, infertility, and even cloning.

Most abortions in California do not take place in hospitals but are performed in abortion clinics. However these clinics, unlike all other freestanding medical clinics, have been exempted from the Department of Health Services regulations, a puzzling and dangerous situation for women undergoing an abortion. If abortion is legal, why do women receive this shoddy treatment? Are these women not entitled to a safe, clean and regulated surgical environment?

Compounding this regulations oversight, no abortion statistics are kept. Californians do not know the number of abortions performed in their state, the number and type of identifiable complications resulting from the procedure, or the frequency of emergency admissions following the procedure. In other words, abortion clinics are exempted from keeping the same statistics that are expected and kept by other medical clinics regarding their medical procedures. Many identifiable fertility problems can be traced directly to abortion, yet in California we neither gather the pertinent data nor make women aware of the possible correlation.

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SB 1301
April 3, 2002

Is this new law going to hamper or hinder a reform of this industry, to practice consonant with what most reasonable people would expect?

With this new statutory designation, you, and all members of the Legislature, could possibly preclude any local control reflective of community mores. For example, with this law a local hospital district would have no choice but to offer abortions at their community facilities, and local school districts could not refrain from offering abortion and contraceptive services at their schools, with or without a parent's permission. This law may even possibly repeal, by implication, the only two remaining pieces of the current law.

The Catholic Church consistently opposes abortion. Although we understand that abortion-on-demand is legal and practiced in California, we are directing our efforts toward advocating common sense restrictions on abortion practices that would mitigate its ill effects on women, children and society as a whole. Unfortunately, even a level of oversight and restriction that most people view as reasonable and necessary would be precluded by the provisions of this act. Under this law, there would be the possibility that someone other than a physician could perform a "non-surgical" abortion. There would be no ability to limit abortion when a fetus is definitely viable, even in the ninth month! With this new law, what is moral when it comes to destroying life is to be decided solely by each individual.

Even though we view abortion as immoral and will not support any version of legal abortion, we ask that you revise SB 1301 to require that California's abortion practice be subject to the same common sense restrictions and oversight already imposed on other medical facilities.

Thank you for your diligent work in these interesting times. Should you have any questions regarding our position, please contact Carol Hogan or myself at (916) 443-4851.

Yours Sincerely,

Ned Dolejsi

Edward E. "Ned" Dolejsi
Executive Director

cc: Members of the Senate Judiciary Committee
Senator Sheila Kuehl, author
Claudia Wrazel, consultant

/lp

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California Medical Association
1201 J Street, Sacramento, CA 95814-2906 • (916) 444-5532
Physicians dedicated to the health of Californians

April 9, 2002

Senator Martha Escutia, Chair
Senate Judiciary Committee
State Capitol, Room 5080
Sacramento, CA 95814

RE: **SB 1301 (Kuehl)**
CMA Position: **Support**

Dear Senator Escutia:

The California Medical Association, representing over 34,000 California physicians supports Senate Bill 1301 (as amended on April 8), by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act codifies existing case law that provides access to safe and legal reproductive health services, including abortion services.

In addition, SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice. The April 8 amendments define non-surgical abortion as the use of pharmacologic agents, which are crucial to this bill as it needs to be clear we are not permitting anyone other than physicians to perform invasive procedures due to concerns regarding safety.

The Reproductive Privacy Act eliminates the unconstitutional, unenforceable and antiquated provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please vote Aye on SB 1301 when it is heard in Senate Judiciary Committee on April 9, 2002.

Sincerely,

Shannon Smith-Crowley, J.D., M.H.A.
Associate Director

Cc: The Honorable Sheila Kuehl
The Members of the Senate Judiciary Committee
Claudia Wrazel, Consultant, Senate Judiciary Committee
Mike Peterson, Consultant, Senate Republican Caucus

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PPAC

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March 19, 2002

The Honorable Sheila Kuehl
Senate Judiciary Committee
State Capitol, Room 4032
Sacramento, CA 95814

RE: Support for SB 1301 (Kuehl)

Dear Senator Kuehl:

Planned Parenthood Affiliates of California (PPAC) supports Senate Bill 1301, by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please vote Aye on SB 1301 when it is heard in Senate Judiciary Committee on April 9, 2002.

Sincerely,

Sue Dunlap
Vice President of Public Policy

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DEMOCRATIC WOMEN of SANTA BARBARA COUNTY

March 22, 2002

The Honorable Sheila Kuehl
State Capitol, Room 4032
Sacramento, CA 95814

Re: SB1301

Dear Senator Kuehl:

At our recent Board Meeting, Democratic Women of Santa Barbara County voted to endorse SB 1301 and we would like to add our name to the list of organizations co-sponsoring and supporting the bill.

Democratic Women is a grass-roots organization with a current membership of 150 women and men. We recently sent out our annual membership letters and we think we will top 200 paid members within the next month. Our mailings go to more than 700 people in our community.

Reproductive choice is one of the major concerns of Democratic Women and we applaud you for taking this step to ensure that all women are able to enjoy the privacy they deserve.

Thank you for your vigilance on this important issue.

Sincerely,

barbie deutsch

Barbie Deutsch
President

cc: Senator Jack O'Connell
Assemblymember Hannah-Beth Jackson

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Santa Cruz

Natural Resources
Robin Tokmakian
Pacific Grove

STATE OFFICE
Office Administrator
Peggi Beggs

Development
Robert Saunders

Program Director/Advocate
Trudy Schafer

March 22, 2002

The Honorable Sheila Kuehl
California State Senate
P.O. Box 942848
Sacramento, CA 94248-0001

Re: SB 1301 – Support

Dear Senator Kuehl:

The League of Women Voters of California is pleased to support your bill SB 1301, the Reproductive Privacy Act.

This bill rids California of the provisions of the Therapeutic Abortion Act of 1967 which are antiquated and unconstitutional. It firmly establishes California's commitment to the fundamental right of freedom of reproductive choice by affirming the privacy rights established by *Roe v. Wade*. In addition, it assures women increased access to safe and early methods of abortion by clarifying the ability of health care providers, acting within their existing scopes of practice, to perform or assist in performance of surgical and nonsurgical abortions.

The League of Women Voters supports reproductive freedom and believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual. SB 1301 is right for the citizens of California. It will safeguard the privacy of women and ensure that reproductive health care policy guards the safety and health of women in California.

Sincerely,

Barbara Inatsugu

Barbara Inatsugu
President

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

AMWA

AMERICAN MEDICAL WOMEN'S ASSOCIATION

MAR 25

March 20, 2002

Senator Sheila Kuehl
Capitol Building 4032
Sacramento, CA 95814

Dear Senator Kuehl,

On behalf of the American Medical Women's Association, a national organization of women physicians and medical students, I wish to express our strong support of S.B. 1301

We are a strongly prochoice organization. We do teaching and training of physicians in medical abortion techniques such as the use of mifepristone, and have many abortion providers among our members. We are delighted that that you have taken this strong stance to protect choice in California law, and will support your bill in every way.

Sincerely yours,

Marjorie Braude M.D.

Marjorie Braude M.D.
Legislative Committee, California Region, American Medical Women's Association
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Los Angeles, California 90049
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March 18, 2002

VIA FACSIMILE TO (916) 324-4823 and VIA U.S. MAIL

The Honorable Shelia Kuehl
State Capitol, Room 4032
Sacramento, CA 95816

Dear Senator Kuehl:

The Women Lawyers Association of Los Angeles (WLALA) strongly urges the passage of Senate Bill Number 1301, the Reproductive Privacy Act.

SB 1301 is an important piece of legislation because it seeks to protect the right to choice in California, provides women greater access to early non-surgical abortion methods, deletes unconstitutional laws, and treats abortion like other comparable medical procedures

Thank you for sponsoring this legislation at a time when *Roe v. Wade* and a woman's right to choose is under attack. California's women need to know that their right to a full range of medical services, including the right to a safe and legal abortion, will be safe regardless of action taken on the federal level.

As a past president of WLALA, you know that for more than 83 years, WLALA has been a powerful and respected advocate of women attorneys, women in general, persons of color, the disadvantaged, and the under-represented in Southern California. With approximately 1,000 members, we are the voice of the largest local women's bar association in California.

Please place WLALA on the list of SB 1301's supporters. If we can be of further assistance in any way, please contact Pro Choice and Reproductive Rights Committee Co-Chairs Kristina Scott at 626-535-0714 or Alison Regan at 310-394-4465.

Sincerely,

Melissa N. Widdifield

Melissa N. Widdifield, President
Women Lawyers Association of Los Angeles

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Jean

ACOG District IX
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FAX: (916) 442-8857
e-mail: district9@acog.org

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS

DISTRICT IX

WOMEN'S HEALTH CARE PHYSICIANS

March 25, 2001

The Honorable Sheila James Kuehl
Senate Judiciary Committee
State Capitol, Room 4032
Sacramento, CA 95814

RE: Senate Bill 1301 (Kuehl)
ACOG-IX Position: SUPPORT

Dear Senator Kuehl:

The American College of Obstetricians and Gynecologists, District IX, representing more than 4300 practicing California physicians, strongly supports Senate Bill 1301 (Kuehl) which is scheduled to be heard in the Senate Judiciary Committee on April 9th.

SB 1301 will repeal provisions of California's Therapeutic Abortion Act which have been found unconstitutional by the courts and replace them with a clear statement regarding a woman's right to choose. This measure also clarifies the role of healthcare professionals in the provision of abortion services. It is our understanding that an amendment will be taken to the bill on April 9th in the Senate Judiciary Committee which clarifies what is meant by nonsurgical abortion. We strongly support the inclusion of this amendment.

ACOG, District IX believes that termination of a pregnancy before viability is a medical matter between a woman and her physician. We support access to care for all individuals, irrespective of financial status, and the availability of all reproductive options. We also oppose any unnecessary regulations or laws which serve to limit or delay access to care, such as those provisions of the Therapeutic Abortion Act which are being repealed by this measure.

For these reasons, we have taken a **SUPPORT** position on SB 1301 and urge your **AYE** vote when this measure comes before you in the Senate Judiciary Committee on April 9th. If I may provide you with additional information regarding our position on this measure, please do not hesitate to contact me at 415.258.9926.

Sincerely,

Joan Hall, JD

Joan M. Hall, JD
Legislative Advocate

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17922 Fitch
Irvine, CA 92614

TREASURER
Jeanne Conry, MD
8204 Cantershi
Granite Bay, CA

PEOPLE FOR THE AMERICAN WAY

By Facsimile and Mail
March 27, 2002

Hon. Sheila Kuehl
Senate Judiciary Committee
Capitol Building No. 4032
Sacramento, California 95814

Re: California Reproductive Privacy Act - Senate Bill 1301

Dear Senator Kuehl:

We are writing on behalf of People For the American Way and our more than 50,000 California members in strong support of Senate Bill 1301, the California Reproductive Privacy Act. For over twenty years, People For the American Way has worked to defend our nation's commitment to fundamental civil rights and constitutional liberties, including women's reproductive rights. SB 1301 will help secure and promote the privacy and reproductive rights of California women and we urge the Senate Judiciary Committee to support this important legislation.

The California Reproductive Privacy Act ("the Act") would repeal outdated state law provisions restricting a woman's right to choose that have been found unconstitutional in court and would replace them with an explicit recognition and protection of privacy rights established by the U.S. Supreme Court in its 1973 Roe v. Wade decision. The Act explicitly protects the right to choose or refuse birth control and the right to bear a child or to terminate an unwanted pregnancy prior to viability and in cases where necessary to protect the life and health of the woman. While People For the American Way is working hard along with others to ensure that a future Supreme Court will not reverse Roe v. Wade and undermine the right to privacy, the threat is real and it makes sense for California to add its significant voice to this fight and to secure these rights for its residents for generations to come.

In addition, the California Reproductive Privacy Act would increase women's access to early and safe methods of terminating an unwanted pregnancy, including the use of mifepristone also known as RU-486 and other "emergency contraceptives." The Act would remove unwarranted restrictions that had been placed at an earlier time on the ability of nurses and other health practitioners to dispense medicine and to assist in the performing of abortions within the scope of their practice,

2852 South Barrington Avenue ▸ Los Angeles, CA 90064
Telephone 310.478.6657 ▸ Fax 310.478.5857 ▸ E-mail pfawca@pfaw.org ▸ Web site http://www.pfaw.org

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performing of abortions within the scope of their practice, licenses and certificates as authorized by law. These outdated restrictions had singled out procedures related to abortion and applied unnecessary regulations that are not applicable to much more complex medical functions and procedures. SB 1301 would ensure that qualified health care professionals, acting within the existing scope of their practice, would be able to treat patients in the area of reproductive health as they do in other medical areas.

In sum, SB 1301 is a sound and important piece of legislation that will help protect the privacy rights and reproductive health of California women. We urge you to pass SB 1301 out of committee and to support the enactment of this legislation as soon as possible.

Sincerely,

Ralph G. Neas
President

Sincerely,

Julie Burton
California Director

Cc: Members of the Senate Judiciary Committee

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WOMEN LAWYERS
ASSOCIATION
OF LOS ANGELES

634 S. SPRING ST.
STE 617
LOS ANGELES, CA 90014

TEL: 213.892.8982
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WEB: WWW.WLALA.ORG
E-MAIL: INFO@WLALA.ORG

MAR 27

March 18, 2002

VIA FACSIMILE TO (916) 324-4823 and VIA U.S. MAIL

The Honorable Shelia Kuehl
State Capitol, Room 4032
Sacramento, CA 95816

Dear Senator Kuehl:

The Women Lawyers Association of Los Angeles (WLALA) strongly urges the passage of Senate Bill Number 1301, the Reproductive Privacy Act.

SB 1301 is an important piece of legislation because it seeks to protect the right to choice in California, provides women greater access to early non-surgical abortion methods, deletes unconstitutional laws, and treats abortion like other comparable medical procedures

Thank you for sponsoring this legislation at a time when *Roe v. Wade* and a woman's right to choose is under attack. California's women need to know that their right to a full range of medical services, including the right to a safe and legal abortion, will be safe regardless of action taken on the federal level.

As a past president of WLALA, you know that for more than 83 years, WLALA has been a powerful and respected advocate of women attorneys, women in general, persons of color, the disadvantaged, and the under-represented in Southern California. With approximately 1,000 members, we are the voice of the largest local women's bar association in California.

Please place WLALA on the list of SB 1301's supporters. If we can be of further assistance in any way, please contact Pro Choice and Reproductive Rights Committee Co-Chairs Kristina Scott at 626-535-0714 or Alison Regan at 310-394-4465.

Sincerely,

Melissa N. Widdifield, President
Women Lawyers Association of Los Angeles

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COMMUNICATIONS OFFICER
DOMINIQUE SHELTON

CHAIR, PAST PRESIDENTS
EILEEN M. DECKER

A-925 P2 - 200

Co-Sponsors and Supporters of SB 1301 by Senator Sheila Kuehl:

- **American Association of University Women, California**
- **American Association of University Women, San Jose Chapter**
- **American Association of University Women, Santa Cruz Chapter**
- **American Civil Liberties Union**
- **American College of Obstetricians and Gynecologists, District IX**
- **California Abortion & Reproductive Rights Action League**
- **California Commission on the Status of Women**
- **California Family Health Council**
- **California Medical Association**
- **California National Organization for Women**
- **California Nurses Association**
- **California Women's and Children's Health Coalition**
- **California Women Lawyers**
- **Democratic Women's Club, Pebble Beach**
- **Hadassah**
- **League of Women Voters of California**
- **Medical Students for Choice, University of Southern California Chapter**
- **National Council of Jewish Women**
- **National Health Law Program**
- **National Latina Alliance**
- **National Organization for Women, Monterey Peninsula Chapter**
- **National Women's Political Caucus of California**
- **Older Women's League**
- **People for the American Way**
- **Planned Parenthood Affiliates of California**
- **Planned Parenthood Golden Gate**
- **Planned Parenthood Los Angeles**
- **Planned Parenthood Orange and San Bernardino Counties**
- **Planned Parenthood Mar Monte**
- **Planned Parenthood of Pasadena**

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GRAY PANTHERS
CALIFORNIA



5313 Fernwood Way
Sacramento, CA 95841
(916)332-5980

FEB - 5 2002

The Honorable Sheila Kuehl
State Capitol Mr. #4032
Sacramento, CA 95814

February 1, 2002

Re: SB 1301

Dear Senator Kuehl:

Gray Panthers California joins with the distinguished list of supporters of your measure, SB 1301, the Reproductive Privacy Act. We believe that this is an important bill to seek a contemporary law governing abortion in California.

Gray Panthers are concerned about the potential for erosion of women's rights, especially in view of the antiquated and unconstitutional provisions of the Therapeutic Abortion Act of 1967. We have both a respect for our constitution and for women's rights to reproductive freedom. Your bill will place California in the role of leader in the US on issues of choice.

Women should have an undeniable right to early abortion methods such as RU-486 and to health professionals who are protected in their ability to perform and assist in the performance of surgical and non-surgical abortions. This bill will protect these professionals.

We strongly support the Roe v. Wade decision and stand firm against any threat to the rights that decision permitted.

Thank you for taking the side of women. We will support you as we can in this measure.

Sincerely,

Joan B. Lee
Legislative Liaison
Gray Panthers California

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Ready for Action to
Take on the fut

STATE OF CALIFORNIA
COMMISSION ON THE STATUS OF WOMEN
1303 J Street, Suite 400
Sacramento, CA 95814-2900

GRAY DAVIS, GOVERNOR

March 5, 2002

The Honorable Sheila Kuehl
Member of the State Senate
State Capitol, Room 4032
Sacramento, CA 95814

Dear Senator Kuehl:

Re: Support for SB 1301 (Kuehl) Reproductive Privacy Act

The California Commission on the Status of Women is supportive of your measure, SB 1301 which would enact a contemporary law governing abortion in California. We agree that this measure is necessary in order to ensure that California women's right to reproductive freedom is protected by a constitutionally sound abortion law.

The Commission has adopted as areas of focus for 2002 the Underserved, Equity, and Economic Autonomy, including Access to Health Care and the Preservation of Women's Reproductive Freedom. Women's reproductive freedom and access to reproductive health care are of paramount importance to the women of California, and continue to be a high priority for the Commission.

If we can be of assistance to you at any time, please contact Vicki Atwood, the Commission's Legislative Coordinator, at 916-322-9462.

Sincerely,

Elmy Bermejo
Chairperson

cc: Jennifer Richard

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California Senate

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Combined Federal Campaign #6200

March 2, 2002

The Honorable Sheila James Kuehl
California State Senate
Sate Capital, Room 4032
Sacramento, California 95814

RE: SB 1301

Dear Senator Kuehl,

It is my pleasure to submit this letter of support for SB 1301, the bill you have authored to ensure that California has a constitutionally sound abortion law that will protect privacy rights, now and in the future.

As you know, a women's right to choose has been under constant attack since the U.S. Supreme Court decided Roe v. Wade. The conservative rightwing is as persistent as they are vicious in their crusade to eliminate hard fought gains for women and girls. We are pleased that SB 1301 will codify those gains thereby lessening the conservative movement's ability to achieve its ultimate goal of eliminating a woman's right to choose.

SB 1301 is a crucial piece of legislation. Your fellow CWLC Board Members commend you for your leadership in authoring the bill and we are proud to express our support.

Sincerely,

Marjorie R. Sims
Executive Director

3460 WILSHIRE BOULEVARD SUITE 1102 • LOS ANGELES CALIFORNIA 90010
PH. 213.637.9900 FX 213.637.9909 EMAIL cwlc@cwlc.org
Website www.cwlc.org

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02-02 5:49p Cal. Women's Law Center 213+637+9909 p.02



CARAL

www.choice.org
www.caral.org

California Abortion and Reproductive Rights Action League

March 5, 2002

Senator Martha Escutia
Chair, Senate Judiciary Committee
State Capitol Room 5080
Sacramento, CA 94248-0001

RE: SB 1301 (Kuehl) Support

Dear Senator Escutia,

CARAL, the California Abortion and Reproductive Rights Action League, representing over 5,000 members, co-sponsors and strongly supports SB 1301. SB 1301, the *Reproductive Privacy Act*, is a contemporary law governing abortion in California, which replaces the antiquated and unconstitutional provisions of the *Therapeutic Abortion Act* of 1967.

Signed by Governor Ronald Reagan, the *Therapeutic Abortion Act* expanded legal abortion in California under restrictive criteria. SB 1301 would delete language in current state law that has been found unconstitutional in either the state or federal courts. The *Reproductive Privacy Act* reflects California's current status as an innovative leader in assuring its citizens have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

In addition, the *Reproductive Privacy Act* would provide women with greater access to abortion services by allowing nurse practitioners, nurse midwives, physician assistants, and other qualified health care professionals to act within their existing scope of practice in relation to assisting with surgical abortions and dispensing mifepristone (formerly known as RU-486).

SB 1301 reaffirms the United States Supreme Court's 1973 *Roe v. Wade* decision, which established a woman's legal right to choose an abortion. SB 1301 would ensure that California has a constitutionally firm abortion law that protects the reproductive rights of all Californians, now and in the future.

Please help protect the reproductive rights of women throughout California by voting AYE on SB 1301 when it is heard in the Senate Judiciary Committee.

Sincerely,

Belle Taylor-McGhee

Belle Taylor-McGhee
Executive Director

cc: Senator Sheila Kuehl

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www.choice.org
www.caral.org

CARAL California Abortion and Reproductive Rights Action League

March 5, 2002

MAR - 5 2002

Senator Martha Escutia
Chair, Senate Judiciary Committee
State Capitol Room 5080
Sacramento, CA 94248-0001

RE: SB 1301 (Kuehl) Support

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Please help protect the reproductive rights of women throughout California by voting AYE on SB 1301 when it is heard in the Senate Judiciary Committee.

Sincerely,

Belle Taylor-McGhee
Executive Director

cc: Senator Sheila Kuehl

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Beatriz Olvera-Stotzer ('97-'99)
Wayne S. Flick ('99-'01)
E. Allison Thomas ('00-'01)

[illegible]ned Federal Campaign #6220

March 2, 2002

The Honorable Sheila James Kuehl
California State Senate
State Capital, Room 4032
Sacramento, California 95814

RE: SB 1301

Dear Senator Kuehl,

It is my pleasure to submit this letter of support for SB 1301, the bill you have authored to ensure that California has a constitutionally sound abortion law that will protect privacy rights, now and in the future.

As you know, a women's right to choose has been under constant attack since the U.S. Supreme Court decided Roe v. Wade. The conservative rightwing is as persistent as they are vicious in their crusade to eliminate hard fought gains for women and girls. We are pleased that SB 1301 will codify those gains thereby lessening the conservative movement's ability to achieve its ultimate goal of eliminating a woman's right to choose.

SB 1301 is a crucial piece of legislation. Your fellow CWLC Board Members commend you for your leadership in authoring the bill and we are proud to express our support.

Sincerely,

Marjorie R. Sims
Executive Director

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PH 213.637.9900 FX 213.637.9909 EMAIL [illegible] Website

The Workmen's Circle/*Arbeter Ring*
Southern California District. Judy Silver, Chairmentsh
Eric A. Gordon, Director. Mark Rogen, Assistant Director

1525 S. Robertson Blvd., Los Angeles, CA 90035-4231
Tel: 310 552-2007 Fax: 310 552-3417 arbetersca@mindspring.com

CELEBRATING OUR 2nd CENTURY

FEB - 4

January 30, 2002

Sen. Sheila James Kuehl
California State Capitol
Room 4032
Sacramento, CA 95814

Dear Sen. Kuehl:

The Workmen's Circle/Arbeter Ring (Southern California District) is proud to be a co-sponsor and supporter of California SB 1301, the Reproductive Privacy Act, reaffirming privacy rights established by Roe v. Wade, among other aspects.

A resolution on Abortion Rights is the first one published in "Where We Stand," a compilation of the resolutions passed at our National Convention in May 2000.

We congratulate you for your work on this bill and wish you success. If we can help you, please let us know how.

With sincere best wishes,

Eric Gordon

for a more beautiful and better world

פאַר אַ שענערע אוּן בעסערע וועלט

1908—Our 94th Year in Southern California—2002

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ABORTION RIGHTS

It has been over 25 years since the landmark Supreme Court decision in *Roe v. Wade* granted women the freedom to choose what is best for their own bodies. This basic human right is increasingly coming under fire from the highly organized conservative movement. Attempts to ban so-called "partial birth" abortions through the legislature are combining with successful efforts to keep non-surgical emergency contraceptives out of the hands of women who need them. Efforts to eliminate sexuality education programs in the schools are working in conjunction with attacks on confidentiality rights to disempower teens from making informed and responsible decisions about their bodies. Even in states where the right to choose is securely protected, movements seeking to create mandatory waiting periods are working in tandem with violent attacks on clinics and doctors and the setting up of blockades to prevent patients from entering. Together, they are creating a climate of disruption and intimidation. Add to this the increasing denial of medical coverage for contraceptives and abortions, both through public and private medical plans, and you have a frightening obstruction of a right that has been granted by the Supreme Court.

THE WORKMEN'S CIRCLE/ARBETER RING is unequivocally pro-choice and strongly:

- Supports efforts to maintain a women's right to choose, such as the Family Planning and Choice Protection Act and the Freedom of Access to Clinic Entrances Act
- Opposes efforts to chip away at this right, such as the attempts to legislate mandatory waiting periods and to ban so-called "partial birth" abortions or other abortion procedures
- Supports efforts to uphold this right for minors, by opposing parental consent and notification laws and opposing the so-called "Child Custody Protection Act," which would make it a crime for anyone other than a legal guardian to transport a minor across state lines for an abortion if her state of origin has a law requiring parental involvement.

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- Supports comprehensive sexuality education programs in the schools and opposes the so-called "Parental Rights" laws that make it easier for anti-choice activists to use the courts, state legislatures, and Congress to ban these programs
- Supports universal access to effective non-surgical emergency contraceptives that can prevent pregnancy after sexual intercourse, such as mifepristone (RU 486)
- Supports efforts to ensure that contraceptives are covered under basic health care plans, just like other prescription drugs
- Supports public funding for abortions
- Supports the protection of federal funding for human embryo research

GAY AND LESBIAN RIGHTS

It is shameful that in this day and age, when legal discrimination based on age, race, sex and religion have been eliminated, it is still legal to discriminate based on sexual preference.

It is shameful that gays and lesbians continue to be disempowered and marginalized, and that homosexuality is not accepted as a legitimate orientation. THE WORKMEN'S CIRCLE/ARBETER RING denounces all homophobia and calls for the following actions:

- Promotion and support of federal and local legislation to protect gays and lesbians from discrimination in employment, housing, access to financing, and public accommodations;
- Recognition of the right of gay and lesbian couples to marry and receive all legal benefits currently accorded to married couples, and the repeal of the so-called "Defense of Marriage Act";
- Revision of state laws governing adoption and custody to include gay and lesbian families;
- Repeal of all sodomy laws regarding consenting adults;
- The right of gays and lesbians to serve openly in the armed forces, as well as in the nation's police forces;

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- Protection and maintenance of HIV/AIDS and sexuality education programs in the public schools, as well as the right of students to form gay and lesbian organizations in schools and universities;
- Requiring that where sexuality is presented, school materials present a balanced view of homosexuality;
- Condemnation of discrimination against gays and lesbians by private organizations; and
- Fair and equitable treatment of gay and lesbian issues in the media.

We are pleased that the state of Vermont is establishing "civil unions" that will provide nearly all the benefits and protections for gay and lesbian partnerships in Vermont that heterosexual marriages there currently enjoy. We are concerned, however, with the state's decision to carve out a separate classification for gay and lesbian couples, rather than expand the definition of marriage. "Civil unions" may not be recognized by any other state, nor may they be eligible for Federal benefits. Only when gay and lesbian partnerships are accorded full marital status will they attain full equality; interim measures like Vermont's are a good first step, but should not be considered a lasting solution.

OUR NATION'S CHILDREN AND THEIR EDUCATION

Our nation's future is in its children: the workforce, civic leaders, educators, and consumers of tomorrow.

All children need and deserve a healthy start: to be properly nourished before birth, in infancy and during their growing years; to receive basic health care both prenatally and during the crucial early years after birth; to receive protection from abuse and neglect; to receive a head start with quality preschool and child care to help them get ready to learn, stay in school, and prepare for the future.

Schools should be safe both in their structure and their emotional climate. Children need true classrooms, not ones converted from closets, toilets, hallways, etc. Class sizes should be small enough to allow full

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

CALIFORNIA PROLIFE

April 4, 2002

Senator Sheila Kuehl
State Capitol
Sacramento, CA 95814

RE: SB 1301—Reproductive Privacy Act—Removes "physician-only" requirement for abortions—OPPOSE (by Senator Sheila Kuehl)

Dear Senator Kuehl:

California ProLife Council, on behalf of its members, regrets to inform you that we oppose **SB 1301**, which would replace the 1967 Therapeutic Abortion Act with the "Reproductive Privacy Act." From our perspective both of these acts have serious flaws, however our most grave concern with **SB 1301** is the repeal of the requirement that only physicians may do abortions in California. Clear language to assure that only physicians and surgeons are authorized to do abortions in California is a minimum the women of California should expect.

Current law requires in Section 123405 of the Health & Safety Code, that abortions be done by "a holder of the physician's and surgeon's certificate." The operative language left in California law would apparently allow non-physicians to perform "nonsurgical" abortions—such as RU 486, methotrexate, or other drug abortions.

Section 123405 would be replaced with Section 123468 of the Reproductive Privacy Act, which drops the reference to physicians and surgeons and states: "The performance of an abortion is unauthorized if . . . the following is true: (a) The person performing or assisting in performing the abortion is not a health care provider authorized to perform or assist in performing an abortion pursuant to Section 2253 of the Business and Professions Code."

In Sections (b)(1) and (b)(2) of 2253, a distinction is made between surgical and non-surgical abortions. Section (b)(1) allows NON-PHYSICIAN medical professionals with the appropriate certificate (whatever that means) TO ASSIST in the performance of SURGICAL abortions. Section (b)(2) allows NON-PHYSICIAN medical professionals, again with the appropriate certificate, TO PERFORM or assist in performing NON-SURGICAL abortions.

Please consider an amendment to SB 1301 to resolve this serious erosion of a provision intended to protect the lives and health of women. It is not in the interest of the women of California to lower the standard of qualifications necessary for the performance of abortions. A clear provision requiring that all abortions be done by physicians and surgeons should be restored.

Sincerely,

Janet B. Carroll

Mrs. Janet B. Carroll
Legislative Analyst

California ProLife Council, Inc.
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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

COMMITTEE ON MORAL CONCERNS

Art Croney, *Executive Director/Lobbyist*
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P.O. Box 2768
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April 1, 2002

APR 1 2002

Senate Judiciary Committee

Please vote **NO** on **SB 1301** (Kuehl); abortion.

This bill would recast California's Therapeutic Abortion Act, calling it the Reproductive Privacy Act and bringing it in line with U.S. Supreme Court decisions starting with Roe v. Wade. The bill anticipates, prematurely we believe, the overturning of the Supreme Court's 1973 judgment. The Committee On Moral Concerns opposes this bill for the following reasons:

1. The bill finds and declares that "every individual possesses a fundamental right of privacy with respect to personal reproductive decisions" (page 6, lines 34 & 35). We agree. However, the bill later conflicts with its own declaration. Biologically, the life of the individual human being begins at the moment of conception. The bill gives certain individuals (women) the right to abort and fatally interfere with the reproductive right of other individuals (their sons and daughters who are living and growing, but not yet born).

2. The bill defines pregnancy as "beginning with the implantation of an embryo." This is politically convenient, but ungrounded in scientific reality. We know where babies come from. Pregnancy begins at conception. That is the principle on which in vitro fertilization works. Also, conception is the *only* time in our lives when our fathers had any contribution to our genetic characteristics. When an embryo fails to exit the fallopian tube this becomes a life-threatening ectopic *pregnancy*. Doctors and scientists who are unmotivated by politics know that pregnancy occurs before implantation in the uterus.

3. The bill defines "viability" as the point when the human fetus may survive outside the uterus. This is another political term lacking real meaning. As individuals, some of us could sustain survival outside the womb earlier than others, just as some of us could survive in the wilderness longer. Again, the bill's findings recognize individuals, but later language clouds that recognition.

4. The bill allows abortion any time before birth. Under Section 123468 (b) (2), aborting a viable human fetus is legal, if continuing the pregnancy until birth poses "no risk to the life *or health* of the pregnant woman." Since there is no such thing as an absolutely risk-free childbirth, under the bill, there is no such thing as an illegal abortion, as long as the abortionist is licensed.

Art Croney

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18 WEEKS

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Date of Hearing: August 7, 2002

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Darrell Steinberg, Chair

SB 1301 (Kuehl) – As Amended: April 8, 2002

Policy Committee: Judiciary — Vote: 8-2
Health — 13-6

Urgency: No — State Mandated Local Program: Yes — Reimbursable: No

SUMMARY

This bill:

1) Enacts the Reproductive Privacy Act which codifies the judicial decisions of the California State Supreme Court and the U.S. Supreme Court over the past 30 years related to abortion.

2) Repeals the reference to the "Therapeutic Abortion Act" and various specified provisions of that Act.

FISCAL EFFECT

Negligible fiscal impact.

COMMENTS

1) Purpose. According to the author, this bill cleans up the state's cryptic and often unconstitutional abortion statutes and ensures that California has a constitutionally sound abortion law to protect privacy rights now and in the future.

   The author states that this bill is important because it does the following: (a) deletes language in current law that has been found unconstitutional in state and federal courts; (b) allows health care providers, acting within their particular scopes of practice to perform or assist in the performance of surgical and non-surgical abortions so that abortion is treated like other comparable medical procedures; (c) provides women greater access to early non-surgical abortion methods; and (d) protects Californians' fundamental right to choose a safe and legal abortion, even if the Supreme Court further reduces the federal protections contained in Roe v. Wade.

2) Background. The state's existing abortion law—the Therapeutic Abortion Act—was signed by Governor Reagan and took effect in 1967. Since its inception, a number of state and federal court decisions have rendered various provisions of this Act wholly or partly invalid. The Legislature has never repealed or modified these provisions in response to the court decisions, however. SB 1301 deletes those provisions of the Therapeutic Abortion Act that have been ruled unconstitutional, adds language consistent with court decisions, and renames the act as the Reproductive Privacy Act.

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3) Opposition. Opponents include the California Catholic Conference, the Capitol ProLife Council, and the Capitol Resources Institute. Although some opponents concede the bill will bring California abortion law into conformance with Roe v. Wade, they assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision.

California Right to Life, in opposition, states that this bill would result in effectively installing an expanded state version of the federal Roe vs. Wade Supreme Court decision.

Analysis Prepared by: Chuck Nicol / APPR. / (916) 319-2081

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Date of Hearing: August 7, 2002

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Darrell Steinberg, Chair

SB 1301 (Kuehl) – As Amended: April 8, 2002

Policy Committee:	Judiciary Health	Vote:	8-2 13-6
Urgency: No	State Mandated Local Program: Yes	Reimbursable:	No

SUMMARY

This bill:

1) Enacts the Reproductive Privacy Act which codifies the judicial decisions of the California State Supreme Court and the U.S. Supreme Court over the past 30 years related to abortion.

2) Repeals the reference to the "Therapeutic Abortion Act" and various specified provisions of that Act.

FISCAL EFFECT

Negligible fiscal impact.

COMMENTS

1) Purpose. According to the author, this bill cleans up the state's cryptic and often unconstitutional abortion statutes and ensures that California has a constitutionally sound abortion law to protect privacy rights now and in the future.

   The author states that this bill is important because it does the following: (a) deletes language in current law that has been found unconstitutional in state and federal courts; (b) allows health care providers, acting within their particular scopes of practice to perform or assist in the performance of surgical and non-surgical abortions so that abortion is treated like other comparable medical procedures; (c) provides women greater access to early non-surgical abortion methods; and (d) protects Californians' fundamental right to choose a safe and legal abortion, even if the Supreme Court further reduces the federal protections contained in Roe v. Wade.

2) Background. The state's existing abortion law—the Therapeutic Abortion Act—was signed by Governor Reagan and took effect in 1967. Since its inception, a number of state and federal court decisions have rendered various provisions of this Act wholly or partly invalid. The Legislature has never repealed or modified these provisions in response to the court decisions, however. SB 1301 deletes those provisions of the Therapeutic Abortion Act that have been ruled unconstitutional, adds language consistent with court decisions, and renames the act as the Reproductive Privacy Act.

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3) Opposition. Opponents include the California Catholic Conference, the Capitol ProLife Council, and the Capitol Resources Institute. Although some opponents concede the bill will bring California abortion law into conformance with Roe v. Wade, they assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision.

California Right to Life, in opposition, states that this bill would result in effectively installing an expanded state version of the federal Roe vs. Wade Supreme Court decision.

Analysis Prepared by: Chuck Nicol / APPR. / (916) 319-2081

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DP 13-6

Date of Hearing: June 25, 2002

ASSEMBLY COMMITTEE ON HEALTH
Helen Thomson, Chair
SB 1301 (Kuehl) – As Amended: April 8, 2002

POLICY QUESTIONS:

1) Should the Reproductive Privacy Act, which codifies judicial decisions handed down by the California State Supreme Court and the U.S. Supreme Court over the past 30 years related to abortion, be enacted?

2) Should references to the "Therapeutic Abortion Act" and specified provisions of that Act be repealed?

SENATE VOTE: 22-12

SUBJECT: Reproductive Privacy Act.

SUMMARY: Enacts the Reproductive Privacy Act which codifies the judicial decisions handed down by the California State Supreme Court and the U.S. Supreme Court over the past 30 years related to abortion. Repeals reference to the "Therapeutic Abortion Act" and various specified provisions of that Act. Specifically, this bill:

1) Enacts the Reproductive Privacy Act which does all of the following:

   a) Makes legislative findings that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.

   b) States the public policy of the State of California to be that:

      i) Every individual has the fundamental right to choose or refuse birth control;

      ii) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specified; and

      iii) The state is prohibited from denying or interfering with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specified.

   c) Prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

   d) States that the performance of an abortion is unauthorized if either of the following is true:

      i) The person performing or assisting in performing the abortion is not a health care provider authorized to perform or assist in performing an abortion pursuant to

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provisions of #3), 4), and 5) below; or

ii) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable; and

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant woman.

e) Defines "abortion" to mean any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

f) Defines "pregnancy" to mean the human reproductive process, beginning with the implantation of an embryo.

g) Defines "State" to mean the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state.

h) Defines "viability" to mean the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.

2) Makes failure to comply with the Reproductive Privacy Act, in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion, unprofessional conduct.

3) Subjects a person to penalties for the unlawful practice of medicine if he or she assists in performing a surgical abortion and does not have a valid, unrevoked, and unsuspended license or certificate that authorizes him or her to perform the functions necessary to assist in performing a surgical abortion.

4) Subjects a person to penalties for the unlawful practice of medicine if he or she performs or assists in performing a nonsurgical abortion, and at the time of so doing, does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon, or does not have another valid, unrevoked, and unsuspended license or certificate that authorizes him or her to perform or assist in performing the functions necessary for a nonsurgical abortion.

5) Defines "nonsurgical abortion" as including termination of pregnancy through the use of pharmacological agents.

6) Repeals the existing title "Therapeutic Abortion Act" and various specified provisions of that Act.

EXISTING LAW:

1) Authorizes, in statute, that a holder of a physician's and surgeon's certificate may perform an abortion only if it takes place in an accredited hospital and is approved by a committee with a

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specified number of physician members that finds that:

a) There is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother; or

b) The pregnancy resulted from rape or incest.

2) Provides, in statute, that the committee noted in 1) above shall not approve an abortion on the ground that the pregnancy resulted from rape or incest unless either the district attorney (DA) upon review of an affidavit from the applicant for the abortion, notifies the committee that probable cause exists to believe the pregnancy resulted from rape or incest, or the DA fails to respond to the committee.

3) Permits, in statute, the applicant for the abortion to petition the superior court for a hearing if the DA informs the committee that there is no probable cause to believe the pregnancy resulted from rape or incest. Requires the court to issue an order that the pregnancy resulted from rape or incest and the committee to approve the abortion if the court determines by a preponderance of evidence that the pregnancy resulted from rape or incest.

4) Has declared, in case law, that the provisions referenced in 1), 2) and 3) above regarding medical criteria and approval processes for obtaining an abortion are unconstitutional. (Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983) 462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.)

5) Provides, in statute, that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy.

6) Although published case law has not explicitly overruled #5) above, case law has explicitly held that the state may prohibit abortions only after viability of the fetus and must include exceptions related to the life and health of the mother. (See, e.g., 65 Ops. Atty. Gen. 261; and Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.))

7) Prohibits, in statute, performing an abortion, except in a medical emergency requiring immediate medical action, upon an unemancipated minor unless she first has given her written consent to the abortion and also has obtained the written consent of one of her parents or legal guardian or upon judgement of a court as specified. Makes it a misdemeanor for any person to knowingly perform an abortion on an unmarried or unemancipated minor without complying with the requirements of this provision.

8) Has declared, in case law, that requiring pregnant minors to secure parental consent or judicial authorization before obtaining abortions violates right the of privacy guaranteed by the California Constitution. (American Academy of Pediatrics v. Lungren (1997) 16 Cal 4th 307)

9) Requires DHS to establish a system for the reporting of abortions to determine their demographic effects and to assess legal and medical standards pertaining to abortion

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practices, and requires DHS to report its findings to the Legislature every two years.

10) Makes failure to comply with the Therapeutic Abortion Act, in performing, assisting, procuring or aiding, abetting, attempting, agreeing, or offering to procure an illegal abortion, unprofessional conduct.

11) Subjects a person to criminal penalties for the unlicensed practice of medicine if he or she performs or assists at a surgical abortion and does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon, or does not have another valid certificate authorizing him or her to perform or assist at a surgical abortion.

FISCAL EFFECT: Unknown.

COMMENTS:

1) PURPOSE OF THIS BILL. According to the author, this bill, entitled the Reproductive Privacy Act, cleans up the cryptic and often unconstitutional abortion code and ensures that California has a constitutionally sound abortion law that will protect privacy rights, now and in the future. The author states that this bill is important because it does the following: deletes language in current state law that has been found unconstitutional in state and federal courts; allows health care providers, acting within their particular scopes of practice to perform or assist in the performance of surgical and non-surgical abortions so that abortion is treated like other comparable medical procedures; provides women greater access to early non-surgical abortion methods; and protects Californians' fundamental right to choose a safe and legal abortion, even if the Supreme Court further reduces the federal protections contained in Roe v. Wade. Although case law has rendered much of the Therapeutic Abortion Act obsolete, the Act itself has never been repealed by the Legislature. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems. The author believes the citizens of California deserve a reproductive privacy law that mirrors their respect for the Constitution and their desire for reproductive freedom. In that spirit, the Reproductive Privacy Act offers California a unique opportunity to once again take the lead in the national forum on the issues of reproductive choice.

2) BACKGROUND. The state's existing abortion law, called the Therapeutic Abortion Act, was signed by former Governor Ronald Reagan and took effect in 1967. This act provided for women's access to abortion services, but spelled out various conditions that had to be met before a woman could obtain an abortion. In the 1970's, a number of sections were added to the Therapeutic Abortion Act, primarily dealing with "conscience clause" issues and the treatment of fetal remains.

Judicial Decisions: In 1972, the California Supreme Court declared several provisions of the Therapeutic Abortion Act, including those requiring prior approval by a medical committee, and limiting approval to cases of rape, incest, or where the pregnancy threatened to "gravely impair" the physical or mental health of the mother, impermissibly vague and therefore unconstitutional. (People v. Barksdale, supra, 8 Cal. 3d at 333.) Other provisions facilitating these statutes, including those requiring the input of the DA, establishing the proper formation of the medical committee, and defining "mental illness" for the purposes of the Act, were declared invalid as well.

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The following year, the U.S. Supreme Court declared that a right of personal privacy exists under the Constitution, and that this right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." (Roe v. Wade , supra, 410 U.S. at 153.) An explicit right to privacy added to the California Constitution in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in Roe v. Wade. (Committee to Defend Reproductive Rights v. Myers (1981), 29 Cal. 3d 252, at 280.)

In 1997, the California Supreme Court invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion. (American Academy of Pediatrics v. Lungren (1997) 16 Cal. 4th 307, 314.)

Thus, since its inception in 1967, a number of state and federal court decisions have rendered various provisions of the state's Therapeutic Abortion Act wholly or partly invalid, and have left the validity of other provisions open to serious question. Despite their unconstitutionality, however, these provisions have remained largely unchanged in the state's Health and Safety Code, because the Legislature has never repealed or modified them in accordance with, or in response to, these court decisions. This bill addresses this confusing statutory situation by deleting the provisions of the Therapeutic Abortion Act that have been ruled unconstitutional, adding language consistent with court decisions, and renaming the act as the Reproductive Privacy Act.

Other Provisions Repealed by this Bill: In addition to the provisions found unconstitutional by the courts, this bill repeals two other provisions of the Therapeutic Abortion Act: that which gives the Act its name and that which requires DHS to collect abortion statistics for demographic purposes and report them to the Legislature.

Provisions of the Therapeutic Abortion Act Not Repealed by this Bill: A number of provisions of the Therapeutic Abortion Act are not addressed or affected by this bill, and will remain in force, as provisions of the Reproductive Privacy Act, if this bill is enacted. Those provisions include:

a) The "conscience clause" provisions, which protect health care professionals who decline to perform or assist in abortions from any discipline, penalty, lawsuit, or employment opportunity as a result of their refusal;

b) A provision prohibiting an individual's refusal to consent to an abortion or sterilization from being grounds for loss of any privileges or denial of public benefits;

c) A provision requiring a minor to obtain parental consent before obtaining an abortion;

d) A provision establishing that an infant prematurely born alive in the course of an abortion has the same right to medical treatment as other infants; and

e) Provisions governing research and study of fetal remains.

Consistency with Judicial Opinions
First Trimester: Under the parameters established in Roe v. Wade, the right of personal privacy outweighs any legitimate state interest in a woman's pregnancy until the end of the

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first trimester of that pregnancy. Thus, during the first trimester, except to protect the health of the mother, the state may not interfere with a woman's right to chose an abortion. This bill explicitly extends that protection to non-surgical abortions by allowing appropriately licensed or certified health care professionals to perform or assist in performing nonsurgical abortions, which will permit the administration of approved early-abortion facilitating drugs such as RU-486.

After the first trimester, a state may regulate abortion in ways "reasonably related" to protecting maternal health, and at the point the fetus becomes viable, the state may regulate and/or prohibit abortions in the interest of protecting the "potentiality of human life" of the viable fetus, except where abortion is necessary to preserve the life or health of the mother. This bill explicitly prohibits the state from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman.

Regulations Related To Maternal Health: This bill also continues to require abortions to be performed by appropriately licensed health care professionals; subjects those who do not comply with the Reproductive Privacy Act to professional discipline; and subjects unlicensed abortion providers to criminal sanctions, in conformity with current law.

Regulations Relating To Preserving Life Of Viable Fetus: In conformity with Roe v. Wade, this bill also prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

3) SUPPORT. Supporters of this bill express concerns about the potential erosion of abortion rights in California and the urgent need to ensure continuing and reasonable access to abortion services. The California Commission on the Status of Women supports this bill as "a contemporary law" to govern abortion in California, adding, "this measure is necessary to ensure that California women's right to reproductive freedom is protected by a constitutionally sound abortion law." Other supporters state that this bill ensures that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. Supporters note that with the advent and approval of RU 486, women have other options besides surgery to end an unwanted pregnancy. This bill increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortions pursuant to their current scope of practice.

4) OPPOSITION. Opponents to this bill state that destroying innocent human life for convenience is wrong and should not be seen as a celebration of 'privacy' or anything else. Although some opponents concede that the bill will bring California abortion law into conformance with Roe v. Wade , they assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision. California Right to Life, in opposition, states that this bill would result in effectively installing an expanded state version of the federal Roe vs. Wade Supreme Court decision. Opponents also write that babies have the fundamental right to expect that once conceived, they have the right to expect that their mothers will protect them and allow them to live.

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5) PREVIOUS LEGISLATION. SB 1360 (Sen. Health & Human Services Committee), Chapter 415, Statutes of 1995 reorganized and renumbered sections of the Health and Safety Code, including the Therapeutic Abortion Act, formerly located in Sections 25950-25954 of the Health and Safety Code.

   a) QUESTIONS AND COMMENTS. California's existing laws regarding abortion reflect the state of the law in 1967 before the California State Supreme Court and the US Supreme Court handed down a number of key decisions, including the seminal Roe v. Wade case, that protect a pregnant woman's right to choose an abortion under specified circumstances. This bill amends California's statutory law primarily to reflect governing federal and state case law. As the analysis details, all but two of the existing provisions under the Therapeutic Abortion Act that have not been overruled by judicial decisions remain in place.

6) SECOND COMMITTEE OF REFERENCE. This bill was previously heard in Assembly Judiciary Committee, and was approved on an 8-2 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

Planned Parenthood Affiliates of California (Sponsor)
Honorable Cruz Bustamante, California Lt. Governor (Co-sponsor)
American Academy of Pediatrics, CA District
American Association of University Women, California
American Association of University Women, San Jose Branch
American Association of University Women, Santa Cruz Branch
American Civil Liberties Union
American Civil Liberties Union, Santa Cruz Chapter
American College of Obstetricians and Gynecologists, District IX
American Medical Women's Association
California Abortion & Reproductive Rights Action League
California Church Impact
California Commission on the Status of Women
California Family Health Council
California Medical Association
California National Organization for Women
California Nurses Association
California Primary Care Association
California Pro-Choice Republicans
California Women Lawyers
California Women's Law Center
California Women's and Children's Health Coalition
Campaign for California Families
Central Coast Alliance for Health
Choice USA, UC Santa Cruz Chapter
City & County of San Francisco Commission on the Status of Women
CommuniCare Health Centers
County of Santa Cruz Board of Supervisors

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Democratic Activists for Women Now
Democratic Central Committee of Santa Cruz County
Democratic Women of Santa Barbara County
Democratic Women's Club, Pebble Beach
Gray Panthers of California
Green Party, Monterey County
Hadassah
Kaiser Permanente Medical Care Program
Lambda Letters Project
Lawyer's Club of San Diego
League of Women Voters of California
League of Women Voters, Monterey Peninsula
League of Women Voters, Santa Cruz County
Los Angeles County Young Democrats
Marin County Women's Commission
Medical Students for Choice, University of Southern California Chapter
Monterey Peninsula College, Women's Programs
National Council of Jewish Women
National Health Law Program
National Latina Alliance
National Organization for Women, California Chapter
National Organization for Women, Monterey Peninsula Chapter
National Organization for Women, San Jose/South Bay Chapter
National Women's Political Caucus of California
Older Women's League of California
People for the American Way
Peoples Democratic Club of Santa Cruz
Physicians for Reproductive Choice and Health
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood: Shasta-Diablo
Pro Choice Coalition of Santa Clara County
Religious Coalition for Reproductive Choice
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
San Luis Obispo County Pro-Choice Coalition
Santa Clara County Democratic Central Committee
Santa Cruz County Women's Commission
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
To Help Everyone Clinic, Inc. (T.H.E. Clinic)
United Nations Association of Santa Cruz County
Valley Women's Club
Ventura County Reproductive Rights Network

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Voters for Choice
West Hollywood Democratic Club
Women Lawyers Association of Los Angeles
Women Lawyers of Santa Cruz County
Women's Programs, Monterey Peninsula College
Women's Foundation
Women's Health Collaborative
Women's Health Specialists
Women's International League for Peach and Freedom, Fresno Branch
Women's International League for Peach and Freedom, Monterey County
Women's Lifecycle Medical Group
Workmen's Circle/Arbeter Ring, Southern California District
Zero Population Growth of Monterey Bay
27th Assembly District Democratic Committee
Numerous individuals

Opposition

California Catholic Conference
California ProLife Council
Capitol Resource Institute
Committee on Moral Concerns
Hispanics for Life and Human Rights
San Mateo Pro Life

Analysis Prepared by: John Gilman / HEALTH / (916) 319-2097

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Date of Hearing: June 11, 2002

ASSEMBLY COMMITTEE ON JUDICIARY
Ellen M. Corbett, Chair
SB 1301 (Kuehl) – As Amended: April 8, 2002

SENATE VOTE: 22-12

SUBJECT: REPRODUCTIVE PRIVACY ACT

KEY ISSUE: SHOULD CALIFORNIA'S LAW RELATING TO ABORTION BE CENTRALLY LOCATED IN A NEW STATE REPRODUCTIVE PRIVACY ACT WHICH WILL PROVIDE, AMONG OTHER THINGS, THAT EVERY INDIVIDUAL POSSESSES A FUNDAMENTAL RIGHT OF PRIVACY WITH RESPECT TO REPRODUCTIVE DECISIONS?

SYNOPSIS

This bill deletes various statutory provisions regarding abortion and enacts in their place a new centralized state Reproductive Privacy Act. This Act will provide, among other things, that every individual possesses a fundamental right of privacy with respect to reproductive decisions, and the state shall not deny or interfere with a woman's right to choose. In support of the bill, women's rights and medical organizations contend that this is a good and long needed clarification of the current state of the abortion law in California. Opponents argue that codification of Roe vs. Wade is a huge mistake. They also contend that an abortion should not be seen as a celebration of privacy.

SUMMARY: Deletes various statutory provisions regarding abortion and enacts in their place a new state Reproductive Privacy Act. Specifically, this bill:

1) Deletes scattered sections pertaining to reproductive privacy issues and enacts a new California Reproductive Privacy Act, which provides that "it is the public policy of the state of California that (a) every individual has the fundamental right to choose or refuse birth control; (b) every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article; and (c) the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically permitted by this article."

2) Repeals Section 123410 of the Health and Safety Code and in its place provides that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

3) Provides that the performance of an abortion is unauthorized if either of the following is true:

   a) The person performing or assisting in the abortion is not a health care provider authorized to perform or assist in an abortion pursuant to Section 2253 of the Business and Professions Code; or

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b) The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.

4) Defines various terms, including 1) pregnancy (defined as "the human reproductive process, beginning with the implantation of an embryo,") and 2) viability (defined as "the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.")

5) Deletes the provision in existing law that provides that the Department of Health Services (DHS) shall have a system established for the reporting of abortions to determine their demographic effects, and to assess legal and medical standards pertaining to abortion practices, and report its findings to the Legislature every two years.

6) Deletes the reference to the "Therapeutic Abortion Act" and instead provides that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

7) Provides that a person is subject to criminal penalties 1) if he or she assists at a surgical abortion and does not have a valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or 2) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.

8) Provides that for the purposes of this section, "nonsurgical abortion includes termination of pregnancy through the use of pharmacologic agents."

EXISTING LAW:

1) Authorizes, in the Therapeutic Abortion Act, that a holder of a physician's and surgeon's certificate may perform an abortion only if it takes place in an accredited hospital and is approved by a committee that finds that 1) there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother, and/or 2) the pregnancy resulted from rape or incest. (Health and Safety Code sections 123400, 123405, 123415. All further code references are to this code unless otherwise stated.)

2) Provides that the committee noted above shall not approve an abortion on the ground that the pregnancy resulted from rape or incest unless either the district attorney (DA) upon review of an affidavit from the applicant for the abortion, notifies the committee that probable cause exists to believe the pregnancy resulted from rape or incest, or the DA fails to respond to the committee. (Section 123407.)

3) Provides that if the DA informs the committee that there is no probable cause to believe the pregnancy resulted from rape or incest, the applicant for the abortion may petition the superior court for a hearing. If the court determines by a preponderance of evidence that the pregnancy resulted from rape or incest, it shall issue an order to this effect and the committee

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shall approve the abortion. (Id.)

4) Has declared, through case law, that these sections' medical criteria and approval processes for obtaining an abortion are unconstitutional. (Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983) 462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.)

5) Provides that the committee of medical staff referred to in Section 123405 must, in all instances, consist of not less than two licensed physicians and surgeons, and if the proposed termination of pregnancy will occur after the 13th week of pregnancy, the committee must consist of at least three such licensed physicians and surgeons. (Section 123410.)

6) Provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy. (Id.)

7) Has invalidated this section's requirement that an abortion must be approved by a medical committee. (People v. Barksdale, supra, 8 Cal. 3d. at 328. Questions remain as to its validity regarding prohibition on abortions after the 20th week of pregnancy. (See, e.g., 65 Ops. Atty. Gen. 261; and Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.))

8) Provides that DHS shall establish a system for the reporting of abortions to determine their demographic effects and to assess legal and medical standards pertaining to abortion practices, and shall report its findings to the Legislature every two years. (Section 123430.)

9) Provides that the performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct, unless done in compliance with the Therapeutic Abortion Act. (Business & Professions Code section 2253.)

10) Provides that a person is subject to criminal penalties for the unlicensed practice of medicine if he or she performs or assists at a surgical abortion and does not have a valid physician's and surgeon's license, or a certificate obtained under another law authorizing him or her to perform or assist at a surgical abortion. (Id.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: If one were to rely solely on a review of California's statutes regarding our laws regulating abortion, he or she would end up with a substantial misconception about the current state of this law. For, as the author notes in support of this legislation, many of our statutes governing abortion have been rendered obsolete by federal and state Supreme Court decisions. The problem is, they still remain on the books, and have yet to be repealed or modified in accordance with controlling case law. The result, she notes, "is a cryptic, often inconsistent abortion code that is laden with constitutional problems." The author also states that these outdated statutes also single out abortions for unnecessary regulation that has not been imposed on more complex procedures, and the existing statutes fail to address and accommodate major advances in medical practice, such as early abortion methods like mifepristone (otherwise known as and hereafter referred to as RU-486).

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According to the author, this bill, sponsored by Planned Parenthood, addresses these problems comprehensively by:

- protecting Californians' fundamental right to choose a safe and legal abortion (even if the Supreme Court further reduces the federal protections contained in Roe v. Wade.)

- providing greater access to early abortion methods like RU-486 by eliminating arbitrary barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

- deleting language in current state law that has been found unconstitutional in state and federal courts.

- treating abortion like other comparable medical procedures, and allowing healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

In support of these changes, the author concludes with this comment:

> We have an anti-choice President, an anti-choice Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade. Now is the time to protect our right to choose - right here in California. SB 1301 will keep abortion safe and legal in California even if the Supreme Court overturns Roe.

Background: The state's existing abortion law, called the Therapeutic Abortion Act, was signed by former Governor Ronald Reagan and took effect in 1967. This act provided for women's access to abortion services, but spelled out various conditions that had to be met before a woman could obtain an abortion. (See, e.g., Sections 123400-123450 of the Health and Safety Act, noted above.) In the 1970's, a number of sections were added to the Therapeutic Abortion Act, primarily dealing with "conscience clause" issues and the treatment of fetal remains.

Several Current Abortion Statutes Are Invalid And Appropriate For Repeal: In 1972, the California Supreme Court declared several provisions of the Therapeutic Abortion Act - those requiring prior approval by a medical committee, and limiting approval to cases of rape, incest, or where the pregnancy threatened to "gravely impair" the physical or mental health of the mother -- impermissibly vague and therefore unconstitutional. (People v. Barksdale, supra, 8 Cal. 3d at 333.) Other provisions facilitating these statutes - those requiring the input of the DA, establishing the proper formation of the medical committee, and defining "mental illness" for the purposes of the Act - were declared invalid as well. (Id. at 334.)

The following year, the U.S. Supreme Court declared that a right of personal privacy exists under the Constitution, and that this right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." (Roe v. Wade, supra, 410 U.S. at 153.) An explicit right to privacy added to the California Constitution in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in Roe v. Wade. (Committee to Defend Reproductive Rights v. Myers (1981), 29 Cal. 3d 252, at 280.)

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In 1997, the California Supreme Court invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion. (American Academy of Pediatrics v. Lungren (1997) 16 Cal. 4th 307, 314.) Thus, this bill's proposed repeal of the above-referenced provisions is consistent with current law.

Thus, since its inception in 1967, a number of state and federal court decisions have rendered various provisions of the state's Therapeutic Abortion Act wholly or partly invalid, and have left the validity of other provisions open to serious question. Despite their unconstitutionality, however, these provisions have remained largely unchanged in the state's Health and Safety Code, because the Legislature has never repealed or modified them in accordance with, or in response to, these court decisions. This bill finally addresses this confusing statutory situation by deleting the provisions of the Therapeutic Abortion Act that have been ruled unconstitutional. The bill also revises certain other provisions as well, including the name of the state's reproductive rights act. In its place, the bill enacts a new Reproductive Privacy Act, as further detailed below.

The Bill Does Not Repeal Or Otherwise Affect Most Other Provisions Of The Act. In addition to the provisions noted above found unconstitutional, this bill repeals two other provisions of the Therapeutic Abortion Act: Section 123400, which gives the Act its name, and Section 123430, which requires DHS to collect abortion statistics for demographic purposes and report them to the Legislature.

The remaining provisions of the Act are not addressed or affected by this bill, and will remain in force if this bill is enacted. Those provisions are:

(1) the "conscience clause" provisions, which protect health care professionals who decline to perform or assist in abortions from any discipline, penalty, lawsuit, or employment opportunity as a result of their refusal [Section 123420];

(2) a provision prohibiting an individual's refusal to consent to abortion or sterilization from being grounds for loss of any privileges or denial of public benefits [Section 123425];

(3) a provision establishing that an infant prematurely born alive in the course of an abortion has the same right to medical treatment as other infants [Section 123435]; and

(4) the provisions governing research and study of fetal remains [Sections 123440 and 123445].

This Bill's Provisions Appear Consistent With Judicially Established Parameters For The Regulation Of Abortion. Under the parameters established in Roe v. Wade, the right of personal privacy outweighs any legitimate state interest in a woman's pregnancy until the end of the first trimester of that pregnancy. (410 U.S. at 164.) After the first trimester, a state may regulate abortion in ways "reasonably related" to protecting maternal health, and at the point the fetus becomes viable, the state may regulate and/or prohibit abortions in the interest of protecting the "potentiality of human life" of the viable fetus, except where abortion is necessary to preserve the life or health of the mother. (Id. at 164-65.)

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Respect for the Right To Privacy In the First Trimester. This bill allows appropriately licensed or certified health care professionals to perform or assist in performing nonsurgical abortions, which will permit the administration of approved early-abortion facilitating drugs such as RU-486. This expansion of abortion rights appears wholly consistent with Roe's mandate that states may not interfere with a woman's right to terminate her pregnancy in the first trimester.

Regulations Related To Maternal Health: This bill also continues to require abortions to be performed by appropriately licensed health care professionals; subjects those who do not comply with the Reproductive Privacy Act to professional discipline; and subjects unlicensed abortion providers to criminal sanctions, in conformity with current law.

Regulations Relating To Preserving Life Of Viable Fetus: In conformity with Roe v. Wade, this bill also prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

ARGUMENTS IN SUPPORT: A plethora of women's rights and medical organizations are in strong support of this legislation, uniformly expressing concerns about the erosion of abortion rights in California and the urgent need to ensure continuing and reasonable access to abortion services.

The California Commission on the Status of Women supports SB 1301 as "a contemporary law" to govern abortion in California, adding, "this measure is necessary to ensure that California women's right to reproductive freedom is protected by a constitutionally sound abortion law."

The American Association of University Women-CA also supports the bill, stating it "ensures that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future." The group states that "[w]ith the advent and approval of RU 486 ... women have other options besides surgery to end an unwanted pregnancy. SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice."

The League of Women Voters writes in support, stating that the bill "assures women increased access to safe and early methods of abortion by clarifying the ability of health care providers, acting within their existing scopes of practice, to perform or assist in performance of surgical and nonsurgical abortions."

Other supporters point to the continued efforts of some groups to repeal abortion rights as a reason to strengthen California's protection of those rights. The California Women's Law Center notes that "a woman's right to choose has been under constant attack since the U.S. Supreme Court decided Roe v. Wade," and calls SB 1301 "a crucial piece of legislation" to codify the "hard fought gains for women and girls" achieved through Roe and other decisions.

The Grey Panthers of California express similar views in support of the bill:

> [W]e are concerned about the potential for erosion of women's rights, especially in view of the antiquated and unconstitutional provisions of the Therapeutic Abortion Act of 1967.... Women should have an undeniable right to early abortion methods such as

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> RU-486 and to health professionals [who can perform and assist in] surgical and nonsurgical abortions. . . . We strongly support the Roe v. Wade decision and stand firm against any threat to the rights that decision permitted.

The American College of Obstetricians and Gynecologists, California chapter, asserts that "the termination of a pregnancy before viability is a medical matter between a woman and her physician." The ACOG supports "the availability of all reproductive options" and opposes "unnecessary regulations or laws which serve to limit or delay access to care, such as those provisions of the Therapeutic Abortion Act being repealed by this measure."

The California Family Health Council writes, "SB 1301 protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services."

The California District of the American Academy of Pediatrics notes that personal differences of opinion about abortion should not limit women's access to legal medical procedures:

> Individual California pediatricians, like other individuals, have differing personal views on abortion. However, as an organization of professional health care providers to children and adolescents, the AAP-CA believes strongly that no legal medical procedure should be made inaccessible. Those who oppose abortion may voice that opposition and educate others about their views. However, it is not appropriate for abortions to be singled out for unnecessary regulation (unrelated to the medical procedure itself).

The writer concludes,

> Current California law relating to abortion is inconsistent and in places incoherent. Yet the health care system is intended to serve each individual according to his or her needs, rather than to act as an enforcer for the will of any interest group. SB 1301 would make the laws accessible and consistent so that choice is not blocked.

ARGUMENTS IN OPPOSITION: Several groups wrote the Committee in strong opposition to the bill, principally objecting to the bill's codification of Roe v. Wade. Although opponents concede that the bill will bring California abortion law into conformance with Roe v. Wade, they assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision. Further, opponents express concern that Roe v. Wade has never been ratified by Congress.

Capitol Resource Institute writes in opposition, stating that "while men and women certainly have not only a right but a responsibility to exercise prudent birth control measures, babies have the 'fundamental right' to expect that once conceived they have the right to expect that their mothers will give them a chance to protect them and allow them to live... SB 1301 also says that the state shall not deny or interfere with a women's right to choose an abortion. This raises a question: What about a doctor who refuses to perform an abortion based on his or her personal beliefs? Could that doctor be considered to be interfering with a woman's "fundamental right" and therefore be penalized?"

Campaign for California Families opposes SB 1301 because it "celebrates the killing of pre-born children as a 'fundamental right.' Abortion ends a pregnancy by destroying and removing the developing child... Approximately 93% of all induced abortions are done for elective,

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non-medical reasons such as these. Destroying innocent human life for convenience is wrong and should not be seen as a celebration of 'privacy' or anything else."

California Right to Life also opposes the bill, stating it "would result in effectively installing a state version of the federal Roe vs. Wade Supreme Court decision with major expansion provisions."

The Committee on Moral Concerns (CMC) opposes the bill for several reasons. First, it asserts that the bill's declaration of an individual's fundamental right of privacy conflicts with a right to abortion, which invades the privacy of the aborted fetus. Second, the CMC disputes the bill's definition of pregnancy ("the human reproductive process, beginning with the implantation of an embryo") as "politically convenient, but ungrounded in scientific reality."

The CMC further argues that the bill's apparent restrictions on abortion of a viable fetus are meaningless, since they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant woman." The CMC asserts, "since there is no such thing as an absolutely risk-free childbirth, there is no such thing as an illegal abortion, as long as the abortionist is licensed."

California ProLife Council also opposes the bill, stating "our most grave concern ... is the repeal of the requirement that only physicians may do abortions in California. Clear language to assure that only physicians and surgeons are authorized to do abortions in California is a minimum the women of California should expect."

Prior Related Legislation. SB 1360 (Sen. Health & Human Services Cmte.), Ch. 415, Stats. of 1995 (reorganized and renumbered sections of Health and Safety Code, including Therapeutic Abortion Act, formerly located at Sections 25950-25954 of the Code).

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics, CA District
American Association of University Women, California
American Association of University Women, San Jose Branch
American Association of University Women, Santa Cruz Branch
American Civil Liberties Union
American College of Obstetricians and Gynecologists, District IX
American Medical Women's Association
Board of Supervisors, County of Santa Cruz
California Abortion & Reproductive Rights Action League
California Church Impact
California Commission on the Status of Women
California Family Health Council
California Medical Association
California National Organization for Women
California Nurses Association
California Pro-Choice Republicans
California Women Lawyers

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California Women's Law Center
California Women's and Children's Health Coalition
Democratic Women of Santa Barbara County
Democratic Women's Club, Pebble Beach
Hadassah
Lambda Letters Project
League of Women Voters of California
Medical Students for Choice, University of Southern California Chapter
National Council of Jewish Women
National Health Law Program
National Latina Alliance
National Organization for Women, Monterey Peninsula Chapter
National Women's Political Caucus of California
Older Women's League
People for the American Way
Planned Parenthood Affiliates of California
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood: Shasta-Diablo
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
San Louis Obispo Counties
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
Valley Women's Club
Voters for Choice
Women Lawyers Association of Los Angeles
Women's Programs, Monterey Peninsula College
Workmen's Circle/Arbeter Ring (Southern California District)

Opposition

California ProLife Council
Committee on Moral Concerns
Capitol Resource Institute
Campaign for California Families
California Right to Life Committee

Analysis Prepared by: Drew Liebert / JUD. / (916) 319-2334

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SENATE THIRD READING
SB 1301 (Kuehl)
As Amended April 8, 2002
Majority vote

SENATE VOTE: 22-12

JUDICIARY	8-2	HEALTH	13-6
Ayes:	Corbett, Dutra, Jackson, Longville, Shelley, Steinberg, Vargas, Wayne	Ayes:	Thomson, Chan, Chavez, Cohn, Frommer, Goldberg, Koretz, Negrete McLeod, Richman, Salinas, Strom-Martin, Washington, Wayne
Nays:	Bates, Robert Pacheco	Nays:	Robert Pacheco, Aanestad, Bates, Dickerson, Runner, Zettel

APPROPRIATIONS	17-4
Ayes:	Steinberg, Alquist, Aroner, Cohn, Corbett, Daucher, Diaz, Firebaugh, Goldberg, Negrete McLeod, Papan, Pavley, Simitian, Washington, Wiggins, Wright, Zettel
Nays:	Bates, Ashburn, Robert Pacheco, Dickerson

SUMMARY: Deletes various statutory provisions regarding abortion and enacts in their place a new state Reproductive Privacy Act. Specifically, among other things, this bill:

1) Deletes scattered sections pertaining to reproductive privacy issues and enacts a new California Reproductive Privacy Act, which provides that "it is the public policy of the state of California that: a) every individual has the fundamental right to choose or refuse birth control; b) every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article; and c) the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically permitted by this article."

2) Repeals Health and Safety Code Section 123410 and in its place provides that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

3) Provides that the performance of an abortion is unauthorized if either of the following is true:

   a) The person performing or assisting in the abortion is not a health care provider authorized to perform or assist in an abortion pursuant to Business and Professions Code Section 2253; or,

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b) The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.

4) Deletes the reference to the "Therapeutic Abortion Act" and instead provides that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

5) Provides that a person is subject to criminal penalties: a) if he or she assists at a surgical abortion and does not have a valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or, b) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.

6) Provides that for the purposes of this section, "nonsurgical abortion includes termination of pregnancy through the use of pharmacologic agents."

EXISTING LAW:

1) Authorizes, in the Therapeutic Abortion Act, that a holder of a physician's and surgeon's certificate may perform an abortion only if it takes place in an accredited hospital and is approved by a committee that finds that: a) there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother; and/or, b) the pregnancy resulted from rape or incest.

2) Has declared, through case law, that the medical criteria and approval processes for obtaining an abortion contained in state codes are unconstitutional. (Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983) 462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.)

3) Provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy.

4) Has invalidated this section's requirement that an abortion must be approved by a medical committee. (People v. Barksdale, supra, 8 Cal. 3d. at 328. Questions remain as to its validity regarding prohibition on abortions after the 20th week of pregnancy. (See, e.g., 65 Ops. Atty. Gen. 261; and Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.))

FISCAL EFFECT: According to the Assembly Appropriations analysis, negligible fiscal impact.

COMMENTS: If one were to rely solely on a review of California's statutes regarding our laws regulating abortion, he or she would end up with a substantial misconception about the current state of this law. For, as the author notes in support of this legislation, many of our statutes governing abortion have been rendered obsolete by federal and state Supreme Court decisions. The problem is, they still remain on the books, and have yet to be repealed or modified in accordance with controlling case law. The result, she notes, "is a cryptic, often inconsistent abortion code that is laden with constitutional problems." The author also states that these

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outdated statutes also single out abortions for unnecessary regulation that has not been imposed on more complex procedures, and the existing statutes fail to address and accommodate major advances in medical practice, such as early abortion methods like mifepristone (otherwise known as and hereafter referred to as RU-486).

According to the author, this bill, sponsored by Planned Parenthood, addresses these problems comprehensively by:

1) Protecting Californians' fundamental right to choose a safe and legal abortion (even if the Supreme Court further reduces the federal protections contained in Roe v. Wade).

2) Providing greater access to early abortion methods like RU-486 by eliminating arbitrary barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

3) Deleting language in current state law that has been found unconstitutional in state and federal courts.

4) Treating abortion like other comparable medical procedures, and allowing healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

5) Allowing for future advancements in medical science relative to non-surgical abortion techniques by not limiting them, while simultaneously clarifying that medication-induced abortions is an appropriate method to be included among other non-surgical abortion techniques.

In support of these changes, the author concludes with this comment:

> We have an anti-choice President, an anti-choice Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade. Now is the time to protect our right to choose - right here in California. SB 1301 will keep abortion safe and legal in California even if the Supreme Court overturns Roe.

The state's existing abortion law, called the Therapeutic Abortion Act, was signed by former Governor Ronald Reagan and took effect in 1967. This act provided for women's access to abortion services, but spelled out various conditions that had to be met before a woman could obtain an abortion. In the 1970's, a number of sections were added to the Therapeutic Abortion Act, primarily dealing with "conscience clause" issues and the treatment of fetal remains.

Several current abortion statutes are invalid and appropriate for repeal. In 1972, the California Supreme Court declared several provisions of the Therapeutic Abortion Act, those requiring prior approval by a medical committee, and limiting approval to cases of rape, incest, or where the pregnancy threatened to "gravely impair" the physical or mental health of the mother, impermissibly vague and therefore unconstitutional. (People v. Barksdale.) Other provisions facilitating these statutes, those requiring the input of the DA, establishing the proper formation of the medical committee, and defining "mental illness" for the purposes of the Act, were declared invalid as well. (Id. at 334.)

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The following year, the U.S. Supreme Court declared that a right of personal privacy exists under the Constitution, and that this right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." (Roe v. Wade.) An explicit right to privacy added to the California Constitution in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in Roe v. Wade. (Committee to Defend Reproductive Rights v. Myers (1981).)

In 1997, the California Supreme Court invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion. (American Academy of Pediatrics v. Lungren (1997).) Thus, this bill's proposed repeal of the above-referenced provisions is consistent with current law.

Thus, since its inception in 1967, a number of state and federal court decisions have rendered various provisions of the state's Therapeutic Abortion Act wholly or partly invalid, and have left the validity of other provisions open to serious question. Despite their unconstitutionality, however, these provisions have remained largely unchanged in the state's Health and Safety Code, because the Legislature has never repealed or modified them in accordance with, or in response to, these court decisions. This bill finally addresses this confusing statutory situation by deleting the provisions of the Therapeutic Abortion Act that have been ruled unconstitutional. The bill also revises certain other provisions as well, including the name of the state's reproductive rights act. In its place, the bill enacts a new Reproductive Privacy Act, as further detailed below.

This bill's provisions appear consistent with judicially established parameters for the regulation of abortion. Under the parameters established in Roe v. Wade, the right of personal privacy outweighs any legitimate state interest in a woman's pregnancy until the end of the first trimester of that pregnancy. After the first trimester, a state may regulate abortion in ways "reasonably related" to protecting maternal health, and at the point the fetus becomes viable, the state may regulate and/or prohibit abortions in the interest of protecting the "potentiality of human life" of the viable fetus, except where abortion is necessary to preserve the life or health of the mother.

This bill allows appropriately licensed or certified health care professionals to perform or assist in performing nonsurgical abortions, which will permit the administration of approved early-abortion facilitating drugs such as RU-486. This expansion of abortion rights appears wholly consistent with Roe's mandate that states may not interfere with a woman's right to terminate her pregnancy in the first trimester.

This bill also continues to require abortions to be performed by appropriately licensed health care professionals; subjects those who do not comply with the Reproductive Privacy Act to professional discipline; and subjects unlicensed abortion providers to criminal sanctions, in conformity with current law.

In conformity with Roe v. Wade, this bill also prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

Analysis Prepared by: Drew Liebert / JUD. / (916) 319-2334 FN: 0006135

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE

Case No. B355195

MAX DAVID BORENSTEIN,

Respondent,

v.

SOFIYA ALEXANDRA GOLDSHTEYN,

Appellant.

Appeal from the Superior Court of California,
County of Los Angeles - Case No. 22STFL08826

Hon. Scott J. Nord, Judge

APPELLANT'S APPENDIX
VOLUME 8 OF 11

Pages 1626-1732

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SB 1301 (Kuehl) – The Reproductive Privacy Act

What does SB 1301 do?

- **Protects the Right to Choice in California**
  The Reproductive Privacy Act will protect Californians' fundamental right to choose a safe and legal abortion – even if the Supreme Court further reduces the federal protections contained in *Roe v. Wade.*

- **Provides Women Greater Access to Early Non-Surgical Abortion Methods**
  SB 1301 will provide greater access to early abortion methods like mifepristone (RU-486) by eliminating arbitrary barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

- **Deletes unconstitutional laws**
  SB 1301 deletes language in current state law that has been found unconstitutional in state and federal courts.

- **Treats abortion like other comparable medical procedures**
  Today, abortions are singled out for regulation that doesn't apply even to more complex procedures. SB 1301 allows healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

Why is the bill necessary?

In 1967, Governor Ronald Reagan signed the Therapeutic Abortion Act, which expanded legal abortion in California under very restrictive criteria. Most of those restrictions were subsequently ruled unconstitutional in the 1972 California Supreme Court case *People v. Barksdale.* The United States Supreme Court issued its landmark *Roe v. Wade* decision in 1973, bolstering California's recognition of abortion as a privacy right guaranteed by the Constitution of the United States. Though *Roe* and *Barksdale* have rendered much of the Therapeutic Abortion Act obsolete, the Act itself has never been repealed by the Legislature. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems.

Who supports the bill?

The bill is supported by Governor Davis and the top leadership of both the Assembly and Senate. The bill is also supported by a large number of women's groups, healthcare providers, civil rights groups, and pro-choice organizations. A complete list of sponsors and supporters is attached.

Why now?

We have an anti-choice President, an anti-choice Congress, and a Supreme Court that could be one vote away from overturning *Roe v. Wade.* Now is the time to protect our right to choose – right here in California. SB 1301 would keep abortion safe and legal in California even if the Supreme Court undercuts *Roe.*

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United States Justice Foundation

June 10, 2002

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Dave Cox, Minority Floor Leader
CALIFORNIA STATE ASSEMBLY
Capitol Building, Room No. 3104
Sacramento, CA 95814
Fax No. 916-349-1999

RE : Comments on SB1301: Reproductive Privacy Legislation

Dear Gentlepersons:

This serves as a brief analysis of SB1301. This particular bill is not pragmatically sound and would be detrimental to the health and safety of California's women. Planned Parenthood, as an example, is already allowing unlicensed personnel to practice medicine without a medical license. Women are not told that unlicensed personnel will be assisting in surgical procedures. Indeed, some of their personnel have no licenses, whatsoever, and only a few months of training, before they are allowed to "assist" in abortion procedures. These employees are apparently responsible for actually handling surgical equipment during the performance of procedures, including mid and late-term abortions. This is simply unconscionable and presents a danger to the health and safety of thousands of women in San Diego alone.

While it might be easy for someone to say that this is mere rhetoric from those who oppose abortion, the facts speak for themselves. I have enclosed the sworn deposition testimony of two Planned Parenthood employees who, under oath, admit that they do not have licenses, but have assisted in the performance of "hundreds" of abortions in the last three years. One can see from their sworn testimony that *neither* employee had *any* specific training in abortion procedures. In fact, one of the employees is not even familiar with the basic terminology used in a 'therapeutic abortion' setting. SB1301 would greatly relax restrictions on who can participate/assist in the performance of "therapeutic abortions." Existing law already states that licensed physicians are the only personnel who may "assist" in an abortion. *California Health & Safety Code* § 123405. The fact suggest that this law is simply overlooked by abortion providers and that women are not told about this oversight.

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Who Supports the Reproductive Privacy Act?

Elected Officials:

Governor Gray Davis
Lieutenant Governor Cruz Bustamante
Assembly Speaker Herb Wesson
(principal co-author)
Senate President Pro Tempore John Burton
(principal co-author)
Senator Alpert
Assemblymember Alquist
Assemblymember Aroner
Assemblymember Canciamilla
Assemblymember Cedillo
Assemblymember Chan
Senator Chesbro
Assemblymember Chu
Assemblymember Cohn
Assemblymember Corbett
Assemblymember Diaz
Senator Escutia
Senator Figueroa
Assemblymember Firebaugh
Assemblymember Frommer
Assemblymember Goldberg
Assemblymember Jackson
(principal co-author)
Senator Karnette
Assemblymember Keeley
Assemblymember Kehoe
Assemblymember Koretz
Assemblymember Liu
Assemblymember Longville
Assemblymember Lowenthal
Assemblymember Matthews
Assemblymember McLeod
Assemblymember Nakano
Assemblymember Nation
Assemblymember Oropeza
Senator Ortiz
Assemblymember Pavley
Senator Perata
Assemblymember Richman
Senator Romero
Assemblymember Salinas
Assemblymember Shelley
Assemblymember Simitian
Senator Speier
Assemblymember Steinberg
Assemblymember Strom-Martin
Senator Torlakson
Assemblymember Vargas
Assemblymember Wayne
Assemblymember Wiggins
Board of Supervisors, County of Santa Cruz

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Who Supports the Reproductive Privacy Act?

Women's Organizations:

American Association of University Women, California
American Association of University Women, San Jose Chapter
American Association of University Women, Santa Cruz Chapter
California Commission on the Status of Women
California National Organization for Women
California Women's Law Center
California Women Lawyers
Contra Costa Commission for Women
Democratic Activists for Women Now
Democratic Women of Santa Barbara County
Democratic Women's Club of Santa Cruz County
Democratic Women's Club of Monterey County
Hadassah
League of Women Voters of California
League of Women Voters of the Monterey Peninsula
League of Women Voters, Santa Cruz County
Marin County Women's Commission
National Council of Jewish Women
National Latina Alliance
National Organization for Women, Monterey Peninsula Chapter
National Organization for Women, San Jose/South Bay Chapter
National Women's Political Caucus of California
Older Women's League
Santa Cruz County Women's Commission
The Women's Foundation
Valley Women's Club
Women's International League for Peace and Freedom, Monterey County
Women Lawyers Association of Los Angeles
Women Lawyers of Santa Cruz County
Women's International League for Peace and Freedom, Fresno Branch
Women's Programs, Monterey Peninsula College

Civil Rights Organizations:

American Civil Liberties Union
American Civil Liberties Union, Santa Cruz County
Democratic Central Committee of Santa Cruz County
Green Party, Monterey County
Lawyers Club of San Diego
Local 715, Service Employees International Union
Los Angeles County Young Democrats
Orcutt Republican Club
People for the American Way
Peoples Democratic Club of Santa Cruz
Santa Clara County Democratic Central Committee
United Nations Association of Santa Cruz County
West Hollywood Democratic Club
27th AD Democratic Committee

Health Care Organizations:

American Academy of Pediatrics, CA District IX
American College of Obstetricians and Gynecologists, District IX
California Family Health Council
California Medical Association
American Medical Women's Association
California Nurses Association
California Women's and Children's Health Coalition
Central Coast Alliance for Health
CommuniCare Health Centers
National Health Law Program
Physicians for Reproductive Choice and Health
Planned Parenthood Affiliates of California
Planned Parenthood Golden Gate
Planned Parenthood Los Angeles
Planned Parenthood Orange and San Bernardino Counties
Planned Parenthood Mar Monte
Planned Parenthood of Pasadena
Planned Parenthood of San Diego and Riverside Counties
Planned Parenthood of Santa Barbara, Ventura and San Luis Obispo Counties
Planned Parenthood: Shasta-Diablo
Santa Cruz Women's Health Center
Six Rivers Planned Parenthood
T.H.E. Clinic, Inc.
Women's Health Collaborative
Women's Health Specialists
Women's Lifecycle Medical Group

Pro-Choice Organizations:

California Abortion & Reproductive Rights Action League
California Pro-Choice Republicans
Choice USA, UC Santa Cruz Chapter
Medical Students for Choice, University of Southern California Chapter
Pro Choice Coalition of Santa Clara County
Religious Coalition for Reproductive Choice
Reproductive Rights Coalition of Monterey County
Reproductive Rights Network of Santa Cruz County
Reproductive Rights Network of Ventura County
San Luis Obispo County Pro-Choice Coalition
Voters for Choice
Zero Population Growth of Monterey Bay

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SB1301 would absolutely gut the protection now afforded to women per Section 123405. Moreover, it would readily allow unqualified personnel to assist in operating on women. And, there is no requirement that women be alerted to the fact that unlicensed personnel will be operating on them. Informed consent should require such disclosures and SB1301 completely overlooks this important medico-legal fact.

SB1301 places a stamp of approval on the type of conduct that is testified to in the attached exhibits. The testimony is undeniable and under sworn oath. It would be incredibly irresponsible for the State of California to relax restrictions regarding the provision of qualified and licensed personnel to California's women. It is trusted that you will analyze and vote responsibly on SB 1301 after reading the attached testimony.

Most respectfully Submitted:

UNITED STATES JUSTICE FOUNDATION

RICHARD D. ACKERMAN,
Attorney at Law.

CC : Herb Wesson, Speaker
Kevin Shelley, Majority Floor Leader
Wilma Chan, Majority Whip
Dennis Mountjoy, Minority Whip
Dion Aroner, Democratic Caucus Chair
Tony Strickland, Republican Caucus Chair

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES,

Plaintiffs,

vs.

Case No. 728883

KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive,

Defendants.

DEPOSITION OF AVECITA MUCINO, taken by the Defendants, at 625 Broadway, Suite 1400, San Diego, California, commencing at 4:41 p.m., Wednesday, November 14, 2001, before CHERYL M. BOLEY, CSR No. 9512, pursuant to Notice.

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APPEARANCES:
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EXHIBITS

DEFENDANTS'	DESCRIPTION	MARKED
(None)		

SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 14, 2001
AT 4:41 P.M.
---o0o---

AVECITA MUCINO,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. WATKINS:

Q Can you please state your name and spell your full name for the record.
A My name?
Q Please.
A Avecita Mucino.
Q Will you spell that, please.
A A-V-E-C-I-T-A, M-U-C-I-N-O.
Q Do you have a middle name?
A No, I don't.
Q Ms. Mucino, as I mentioned earlier, my name is Dan Watkins, and I represent Ken Scott and we're going to ask you questions very much like we did with Ms. Wilkerson. And I won't go over all the admonitions, but I want to remind you that you are under oath, just like you would be under oath in a court of law. Do you

understand that?
A Yes.
Q And please make sure you understand my question so that there's no confusion between the two of us and what we're talking about.
If there's any ambiguity in your mind, point it out and I'll restate the question in a different way. Do you understand that?
A Yes.
Q What's your date of birth, ma'am?
A 12/5/62.
Q I'm sorry?
A 12/5/62.
Q Have you ever had your deposition taken before?
A No.
Q Are you employed?
A Yes.
Q How so? Who are you employed by?
A Planned Parenthood.
Q How long have you been with Planned Parenthood?
A Three years.
Q So when did you start? I should have asked that.
A October '98.
Q Before we go into your work at Planned

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Parenthood, do you have a high school diploma?
A No. I have a GED.
Q When did you accomplish that?
A 1985.
Q Other than the GED, do you have any other education?
A Medical assistant.
Q So you went to a medical assistant's course?
A Yes.
Q Where was that?
A Los Angeles, California.
Q The name of the school?
A Bryman School.
Q Can you spell that?
A B-R-Y-M-A-N.
Q Thank you.
And what was the -- what did you study there as a medical assistant?
A Patient care and vital signs and lab.
Q I'm sorry?
A Lab. Laboratory.
Q Oh, lab work?
A Uh-huh, lab work. And phlebotomist.
Q Is Bryman a school that's designed to provide medical assistant education for family planning?

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A No.
Q It's general medical assisting?
A General.
Q Did you learn any surgical procedures there, how to assist in surgical procedures at Bryman?
A No surgical. Well, yes, surgical procedure like assisting a doctor in any surgical procedure, not a certain procedure.
Q Just general surgical procedures?
A Right.
Q Did you study anatomy?
A Only what is involved in the course, no more.
Q Well, did you have a course on anatomy?
A No, not that specific, just anatomy.
Q What?
A But -- well, of course, because the course involves anatomy.
Q So in relationship to the different subjects that you studied, you studied anatomy as it applied to, for example, your surgical procedures?
A Right.
Q So it was kind of part and parcel to the other courses that you were studying?
A Yes.
Q And when did you complete your coursework at

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Bryman?
A '87, '88.
Q Do you have any other educational experiences other than Bryman?
A No.
Q And how have you been employed since completing Bryman? What was your first job after that?
A Family Planning Associates Medical Group.
Q Oh, Associates Medical Group?
A Uh-huh.
Q Is that a "yes"?
A Yes.
Q And were you a medical assistant there?
A Yes.
Q What were your job responsibilities?
A Taking vital signs and lab work.
Q Did you do counseling?
A No.
Q Did you assist in any procedures?
A Yes.
Q Did you assist in first term abortions?
A Yes.
Q Did you assist in second term abortions?
A No.
Q How about did you ever assist in a medically

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necessary third term abortion?
A No.
Q Have you ever assisted in a partial birth abortion?
A Can you explain that?
Q If you don't understand the term, then you don't have to answer the question. Do you know what a partial birth abortion is?
A No.
Q Have you ever heard that term?
A No.
Q Approximately how many times did you assist in first term abortions at Family Planning Associates Medical Group?
A A lot of times.
Q I'm sorry?
A A lot of times, I can't --
Q More than 100?
A Yes.
Q More than 500?
A I don't know.
Q Hundreds?
A Yes.
Q I'll let Mr. Ackerman question you on the different types of procedures. I'm not familiar with

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those.
How long were you with Family Planning Associates Medical Group?
A From '89 to -- 1989 to '97.
Q Excuse me. 1989 through 1997?
A No, 1989 --
Q Right.
A -- to 1997.
Q So about eight years?
A Yes.
Q Were you a medical assistant the entire time?
A Yes.
Q And during that eight-year period you did not do any counseling?
A No.
Q And after leaving Family Planning Associates, is that when you went to Planned Parenthood?
A Yes.
Q Did you work anywhere else in between the two?
A No.
Q And what were your job responsibilities when you started at Planned Parenthood?
A Surgical services assistant.
Q And what were your responsibilities as a surgical services assistant?

A Counseling patients, assisting the doctor in the procedures.
Q Post-procedure care as well?
A No.
Q And have you counseled hundreds of different patients?
A Yes.
Q Have you -- again, the counseling that you're providing, is that before the procedure?
A Yes.
Q The procedures that you've assisted with Planned Parenthood, do these include first term abortions?
A Yes.
Q Second term abortions?
A Yes.
Q And third term abortions? Have you assisted in any of those?
A What do you mean by third?
Q An abortion that occurs in the third trimester for medical reasons or otherwise.
A No.
MR. ACKERMAN: Can we go off the record?
(Off the record)
BY MR. WATKINS:
Q Approximately how many first term abortions have

you assisted with at Planned Parenthood?
A I don't know.
Q Hundreds?
A Yes.
Q Would it be more than 100?
A Maybe, yes.
Q Well, don't guess, and don't give me an answer just because you think I want it. I'm just trying to get an estimate from you. If it's not 100, it's not --
A More than 100.
Q How about second term abortions? How many of those?
A About the same.
Q And are you still a surgical services assistant?
A Yes.
Q I'm looking at at least one declaration that you've signed in this case dated March 11, 1999, and it makes reference to an incident on February 27, 1999.
Do you have memory of something occurring on February 27, '99, an incident?
A Yes.
Q Are there any other incidents that you're complaining of as part of this lawsuit aside of what happened on February 27, 1999?
A No.

Q And are you -- prior to February 27, 1999, did you ever work on a Saturday at Mission Valley Planned Parenthood?
A Yes.
Q And did you work on Saturdays as part of that rotation that we discussed with Ms. Wilkerson, just it would come up maybe two times a month you'd work on Saturdays?
A No. Two shifts, either you work Monday through Friday or Tuesday through Saturday. So I was on the Tuesday through Saturday schedule.
Q And did you work every Saturday then?
A Yes.
Q Do you continue to work every Saturday?
A No.
Q So initially when you were employed at Planned Parenthood, you were working every Saturday, Tuesday through Saturday?
A Yes.
Q When did that change?
A About a year and a half ago.
Q Why did that change?
A Because of my needs of my family. I needed to have Saturday off to spend more time with my family.
Q I don't want to get into your private life.

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SB 1301 (KUEHL)
REPRODUCTIVE PRIVACY ACT.

Version: 4/8/02 Last Amended
Vote: Majority
Oppose

Vice-Chair: Tom Harman
Tax or Fee Increase: No

Recast statutory law, in keeping with federal and state supreme court decisions, to provide that the state shall not interfere with a woman's right to abortion, which includes diluting the parental role in child upbringing.

Policy Question

Should the statutory law be recast, in keeping with federal and state supreme court decisions, to provide that the state shall not deny or interfere with a woman's right to choose whether to bear a child or to abort, which includes diluting the role of parents in the upbringing of their minor children?

Summary

This bill: (1) Deletes and revises provisions of the California Therapeutic Abortion Act and renames it to be the Reproductive Privacy Act; (2) Declares legislative intent to protect the reproductivity privacy of all Californians; and (3) Provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions, and the state shall not deny or interfere with a woman's right to choose to bear a child or to choose an abortion, except in extremely limited circumstances. More specifically this bill:

1. Deletes scattered sections pertaining to reproductive privacy issues and enacts a new California Reproductive Privacy Act, which provides that it is the public policy of the state of California that: (1) "every individual has the fundamental right to choose or refuse birth control;" (2) "every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article; and" (3) "the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically permitted by this article."
2. Repeals Section 123410 of the Health and Safety Code and provides, in its place, that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."
3. Provides that the performance of an abortion is unauthorized if either of the following is true: (1) The person performing or assisting in the abortion is not a health care provider authorized to perform or assist in an abortion pursuant to Section 2253 of the Business and Professions Code; or (2) The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.
4. Defines various terms, including 1) pregnancy (defined as "the human reproductive process, beginning with the implantation of an embryo,") and 2) viability (defined as "the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.")
5. Deletes the provision in existing law that provides that the Department of Health Services (DHS) shall have a system established for the reporting of abortions to determine their demographic effects, and to assess legal and medical standards pertaining to abortion practices, and report its findings to the Legislature every two years.
6. Deletes the reference to the "Therapeutic Abortion Act" and instead provides that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

Senate Republican Floor Votes (22-12) 5/16/02
Ayes: Mc Pherson
Noes: All Other Republicans Except
Abs. / NV: Johannessen

Assembly Republican Judiciary Votes (8-2) 6/11/02
Ayes: None
Noes: Bates, Robert Pacheco
Abs. / NV: Harman, Rod Pacheco

Assembly Republican **Votes** (0-0) 1/1/01
Ayes: None
Noes: None
Abs. / NV: None

Assembly Republican **Votes** (0-0) 1/1/01
Ayes: None
Noes: None
Abs. / NV: None

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7. Provides that a person is subject to criminal penalties 1) if he or she assists at a surgical abortion and does not have a valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or 2) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.
8. Provides that for the purposes of this section, "nonsurgical abortion includes termination of pregnancy through the use of pharmacologic agents." **(I.e. authorizes non-physicians to perform non-surgical abortions – a nurse could prescribe RU-486).**

Support

American Academy of Pediatrics, CA District; American Association of University Women, California; American Association of University Women, San Jose Branch; American Association of University Women, Santa Cruz Branch; American Civil Liberties Union; American College of Obstetricians and Gynecologists, District IX; American Medical Women's Association; Board of Supervisors, County of Santa Cruz; California Abortion & Reproductive Rights Action League; California Church Impact; California Commission on the Status of Women; California Family Health Council; California Medical Association; California National Organization for Women; California Nurses Association; California Pro-Choice Republicans; California Women Lawyers; California Women's Law Center; California Women's and Children's Health Coalition; Democratic Women of Santa Barbara County; Democratic Women's Club, Pebble Beach; Hadassah; Lambda Letters Project; League of Women Voters of California; Medical Students for Choice, University of Southern California Chapter; National Abortion Federation (NAF); National Council of Jewish Women; National Health Law Program; National Latina Alliance; National Organization for Women, Monterey Peninsula Chapter; National Women's Political Caucus of California; Older Women's League; People for the American Way; Planned Parenthood Affiliates of California; Planned Parenthood Golden Gate; Planned Parenthood Los Angeles; Planned Parenthood Mar Monte; Planned Parenthood of Pasadena; Planned Parenthood of San Diego and Riverside Counties; Planned Parenthood of Santa Barbara, Ventura and Planned Parenthood Orange and San Bernardino Counties; Planned Parenthood: Shasta-Diablo; Reproductive Rights Coalition of Monterey County; Reproductive Rights Network of Santa Cruz County; San Louis Obispo Counties; Santa Cruz Women's Health Center; Six Rivers Planned Parenthood; Valley Women's Club; Voters for Choice; Women Lawyers Association of Los Angeles; Women's Programs, Monterey Peninsula College; and Workmen's Circle/Arbeter Ring (Southern California District).

Opposition

California Catholic Conference; California ProLife Council; Committee on Moral Concerns; Capitol Resource Institute; Campaign for California Families; and California Right to Life Committee.

Arguments In Support of the Bill

The author and proponents, concerned that *Roe v. Wade* (1973) could be modified or overturned, view this bill as: **(1)** Protecting Californians' fundamental right to choose a safe and legal abortion; **(2)** Providing greater access to early abortion methods, such as use of mifepristone or also referred to as RU-486, by eliminating barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health; **(3)** Deleting language in current state law that has generally been found to be unconstitutional in state and federal courts; and **(4)** Treating abortion like other comparable medical procedures, and allowing healthcare providers , acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

Arguments In Opposition to the Bill

1. By stating that as public policy that "every individual" has a fundamental right "to choose to bear a child or to choose and to obtain an abortion," this bill would further diminish the role of parents in the upbringing of their minor children.
2. Two key points asserted by the California Catholic Conference in opposition to this bill include: (1) "With this new statutory designation, you, and all members of the Legislature, could possibly preclude any local control reflective of community mores. For example, with this law a local hospital district would have no choice but to offer abortions at their community facilities, and local school districts could not refrain from offering abortion and contraceptive services at their schools, with or without a parent's permission. This law may even possibly repeal, by implication, the only two remaining pieces of the current law." (2) The Catholic Church consistently opposes abortion. Although we understand that abortion-on-demand is legal and practiced in California, we are directing our efforts toward advocating common sense restrictions on abortion practices that would mitigate its ill effects on women, children and society as a whole. Unfortunately, even a level of oversight and restriction that most people view as reasonable and necessary would be precluded by the provisions of this act. Under the law, there would be the possibility that someone other than a physician could perform a 'no'-surgical' abortion. There would be no ability to limit abortion when a fetus is definitely viable, even

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in the ninth month! With this new law, what is moral when it comes to destroying life is to be decided solely by each individual."

3. The Campaign for California Families (CCF) strongly opposes the bill asserting that it "celebrates the killing of pre-born children as a 'fundamental right.' Abortion ends a pregnancy by destroying and removing the developing child." CCF further reports that "Approximately 93% of all induced abortions are done for elective, non-medical reasons such as these. Destroying innocent human life for convenience is wrong and should not be seen as a celebration of 'privacy' or anything else."
4. Capitol Resource Institute contends that "while men and women certainly have not only a right but a responsibility to exercise prudent birth control measures, babies have the 'fundamental right' to expect that once conceived they have the right to expect that their mothers will give them a chance to protect them and allow them to live."
5. The California Right to Life views this bill as resulting "in effectively installing a state version of the federal Roe vs. Wade Supreme Court decision with major expansion provisions."
6. The California Pro-Life Council expresses grave concern with "the repeal of the requirement that only physicians may do abortions. Clear language to assure that only physicians and surgeons are authorized to do abortions in California is a minimum the women of California should expect." The authorization of the use of RU-486 could lead to deaths and serious injuries depending upon how it is administered.
7. The Committee on Moral Concerns (Committee) holds that the apparent restrictions in the bill pertaining to abortion of a viable fetus are meaningless as they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant women." The Committee concludes that "since there is no such thing as an absolutely risk-free childbirth, there is no such thing as an illegal abortion, as long as the abortionist is licensed."

Fiscal Effect

Unknown.

Comments

EXISTING LAW.

1. The Therapeutic Abortion Act provides in part that a requirement that an abortion may only be performed by the holder of a physician's and surgeon's certificate under specified conditions [Health and Safety Code Section 123400 et seq.].
2. The Therapeutic Abortion Act (Act) further provides in part that that prior approval be obtained for each abortion by a committee of medical staff, with specified membership, who must determine either that continuation of the pregnancy would impair the physical or mental health of the mother, or that the pregnancy resulted from rape or incest [Health and Safety Code Section 123400 et seq.]. The California Supreme Court invalidated part of the Act that required that an abortion must be approved by a medical committee in *People v. Barksdale* (1972) 8 Cal.3d 320.
3. The Therapeutic Abortion Act provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy [Health and Safety Code Section 123410].
4. The procuring or aiding, abetting, attempting, agreeing, or offering to procure an unauthorized abortion constitutes unprofessional conduct of a licensee under the Medical Practices Act absent compliance with the Therapeutic Abortion Act [Business and Professions Code Section 2253].
5. A person is criminally liable, and subject to possible imprisonment, if he or she performs or assists in performing a surgical abortion if he or she does not have a valid, unrevoked, and unsuspended license to practice a s a physician and surgeon, or other certificate that authorizes him or her to perform or assist in performing a surgical abortion {Business and Professions Code Section 2253(b)].
6. The United States Supreme Court in *Roe v. Wade* (1973) 410 U.S. at 153 held that a right of personal privacy exists under the federal Constitution, and that such right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."
7. The California Supreme Court declared that an explicit right to privacy added to the California Constitution [in Article I] in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in *Roe v. Wade.*
8. The California Supreme Court, headed in 1997 by Chief Justice Ron George, invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion in *American Academy of Pediatric v. Lungren* (1997) 16 Cal. 4th 307, 314.

Policy Consultant: Mark Redmond 6/8/02
Fiscal Consultant:

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

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United States Justice Foundation

June 7, 2002

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ASSEMBLY COMMITTEE ON HEALTH
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RE : Comments on SB1301: Reproductive Privacy Legislation

Dear Gentlepersons:

This serves as a brief analysis of SB1301. This particular bill is not pragmatically sound and would be detrimental to the health and safety of California's women. Planned Parenthood, as an example, is already allowing unlicensed personnel to practice medicine without a medical license. Indeed, some of their personnel have no licenses, whatsoever, and only a few months of training, before they are allowed to "assist" in abortion procedures. This is simply unconscionable and presents a danger to the health and safety of thousands of women in San Diego alone.

While it might be easy for someone to say that this is mere rhetoric, the facts speak for themselves. I have enclosed the sworn deposition testimony of two Planned Parenthood employees who, under oath, admit that they do not have licenses, but have assisted in the performance of "hundreds" of abortions in the last three years. One can see from their sworn testimony that neither employee had *any* specific training in abortion procedures. In fact, one of the employees is not even familiar with the basic terminology used in a 'therapeutic abortion' setting. SB1301 would greatly relax restrictions on who can participate/assist in the performance of "therapeutic abortions." Existing law already states that licensed physicians are the only personnel who may "assist" in an abortion. *California Health & Safety Code* § 123405.

SB1301 places a stamp of approval on the type of conduct that is testified to in the attached exhibits. The testimony is undeniable and under sworn oath. It would be incredibly irresponsible for the State of California to relax restriction on the provision of qualified and licensed personnel to California's women. It is trusted that you will responsibly vote on SB 1301 after reading the attached testimony.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Most respectfully Submitted:

UNITED STATES JUSTICE FOUNDATION

RICHARD D. ACKERMAN,
Attorney at Law.

CC : Assembly Member Vargas
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LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

EXHIBIT 1

CONDENSED

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES,	)	
Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive,	)	
Defendants.	)	

DEPOSITION OF MARIE WILKERSON

TAKEN ON

WEDNESDAY, NOVEMBER 14, 2001

PRECISION COURT REPORTING SERVICES
PRECISION VIDEO SERVICES
CHRISTIE HUDSON HOEHN, President
305 North Second Avenue
Upland, California 91786
(909) 981-1300 (800) 98-DEPOS
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e-mail: precision@depotime.com
video@depotime.com

Reporter: Cheryl M. Boley
CSR No. 9512

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understand to make sure that your testimony accurately reflects the question I presented. Do you understand that?
A **Yes.**
Q It's important that only one person speak at a time. I don't think we'll have any problems here, but if we do, I'll just point it out, say we need to stop doing that. Because as I mentioned, when it reads like a play, if we're interrupting each other, when it's typed out the typeset is all interrupted and you can't read the question from the answer and it's difficult, so I'm going to ask you to try and wait until I'm done with my question. And it's also important to do that because sometimes the whole meaning of the question can change on the last word phrased. Okay?
A **Yes.**
Q Is there any reason you can think of today that would prevent you from giving your full and complete testimony such as medication, illness, anything like that?
A **No.**
Q What's your date of birth, ma'am?
A **5/12/67.**
Q Have you seen medical providers of any sort for the damages you're claiming in this case?

A **No.**
Q Have you seen any counselors of any sort for the damages you're seeking in this case?
A **No.**
Q Have you ever had your deposition taken before?
A **No.**
Q Did you bring any documents here today with you to the deposition?
A **No.**
Q Off the record.
(Off the record)
BY MR. WATKINS:
Q Do you maintain a diary?
A **No, I do not.**
Q Do you maintain a journal of any sort like that where you make regular entries?
A **On occasion.**
Q Did you make any entries with respect to the incidents that are at issue here?
A **I just made a statement on what occurred that day.**
Q Was that at the request of your attorney?
A **No.**
Q Who did you make a statement for?
A **For my manager.**

Q Who's that?
A **Mindy Moore.**
Q And when was that statement made?
MR. McELROY: That question is perfectly appropriate, but I think the response to the previous question, it was in response to an attorney's request which was made through her manager. It was made from my office to her manager, so she may not be aware of that. But you can certainly ask when it was made.
THE WITNESS: The morning of Saturday, February 27th.
BY MR. WATKINS:
Q Did you review any documents in preparation for your deposition such as a declaration or this statement?
A **Yes.**
Q Did you review this statement in preparation for your deposition?
A **The declaration I reviewed today.**
Q So you reviewed a declaration that you signed earlier in preparation for your deposition?
A **Yes.**
Q Did you review these notes that you made for Mindy Moore in preparation for your deposition?
A **No.**
Q When was the last time you saw those notes?

A **The morning of February 27th.**
Q I presume they were handwritten notes?
A **Yes.**
Q And Ms. Moore requested that you make that statement?
A **Yes.**
Q Other than that written statement to Ms. Moore, did you maintain any notes in a computer on a Palm Pilot or any other type of notation regarding this incident?
A **No.**
MR. WATKINS: Is there a loss of earnings claim at all related to this?
MR. McELROY: No.
BY MR. WATKINS:
Q And do you agree with that? You didn't lose any money from work as a result of this, did you?
A **No, I didn't.**
Q And are you currently employed at Planned Parenthood?
A **Yes, I am.**
Q How long have you been there?
A **Since October of 1997.**
Q What are your job responsibilities there today?
A **I'm a medical receptionist.**
Q Have you held that same position since October

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'97?
A No. I had a previous job title. I was previously a surgical assistant.
Q When did you start as a medical receptionist?
A Just July of this year, late July.
Q July of 2001?
A Yes.
Q So from October '97 through July of 2001, you were a surgical assistant?
A Yes.
Q Do you have medical training related to being a surgical assistant?
A I have a certificate in medical assisting.
Q Where is that certificate from?
A Concord Courier Institute.
Q How long is that course?
A Eight months.
Q What are the things that you studied there at Concord Courier Institute?
A How to draw blood, take vital signs, counsel patients.
Q What type of patients?
A Like pregnancy counseling.
Q What else did you study there?
A X-rays.

Q What did you do with x-rays? Taking x-rays? Reviewing x-rays?
A Taking x-rays.
Q Anything else?
A And assist in minor surgeries.
Q What kind of surgeries? Was there a specific group or specific type?
A Lacerations. Nothing in particular, it was like a family planning.
Q Did Concord Courier Institute have a curriculum set around family planning?
A Mostly family planning, yes.
Q Do you have a high school diploma?
A Yes.
Q When did you receive that?
A 19 June of 1984.
Q And when did you go to Concord Courier?
A October of 1990.
Q Through what, June of '91?
A June of '91.
Q Between 1984 and 1990, did you obtain any other education?
A I went to college for one year.
Q College of Whittier?
A Late '84, for one year.

Q What did you study at College of Whittier?
A Medical assisting.
Q Was it the same types of things you studied at Concord Courier?
A It was mostly medical terminology.
Q Did you study anatomy?
A Yes.
Q Did you study anatomy at Concord Courier?
A No.
Q And after College of Whittier, approximately 1985, what did you do with respect to either work or education?
A Can you repeat that question?
Q Sure. After leaving College of Whittier, what did you do as far as working or going to school?
A I was a homemaker.
Q And how long did you do that before you went back to work?
A From late '85 until June, until I started school, I was a homemaker.
Q Before you started at Concord Courier?
A Yeah.
Q Did you have any employment during that time?
A I started my first job after graduating Concord with Point Loma Medical Group.

Q During the time that you were a homemaker, did you have any other employment?
A No.
Q And upon graduating from Concord Courier, you went to work for Point Loma Medical Group?
A Yes.
Q What was your job there?
A Medical assistant.
Q What were your responsibilities as a medical assistant there?
A Assisting doctors with patients doing first trimester abortions.
Q So you actually assisted in the procedure itself?
A Yes.
Q How long were you a medical assistant at Point Loma Medical Group?
A About three and a half years.
Q And during that entire time were you a medical assistant with first trimester abortions?
A Yes.
Q Were you involved in assisting any other types of abortions while you were at Point Loma Medical Group?
A No.
Q And as far as your memory then, while you were at Point Loma Medical Group, did you ever assist in a

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medically necessary late term abortion?
A No.
Q And where did you go to work after Point Loma?
A **I stayed home with my children.**
Q When did you start doing that as far as month and year? We're probably looking at what, 1990 or so? No, I missed that. Hold on. '95?
A **I stayed home until about late -- no, early '96, and then I started volunteering at Planned Parenthood before I got hired as an employee.**
Q When did you start volunteering?
A **June of '97.**
Q And what were you doing when you volunteered at Planned Parenthood?
A **I volunteered in the human resource department.**
Q And which Planned Parenthood facility was that?
A **Mission Valley.**
Q Have you been at Mission Valley Planned Parenthood since June of 1997?
A **Yes.**
Q How long were you an HR volunteer?
A **Until October of '97 when I got hired as a full-time employee.**
Q That's when you went to work as the surgical assistant?

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A **Yes.**
Q Why did you change from a surgical assistant to medical receptionist?
A **They had to downsize the department, so I was transferred to a different location.**
Q At the time of February 27, '99, were you a medical assistant -- or excuse me -- a surgical assistant?
A **Yes.**
Q Were you involved in counseling at all as a medical receptionist?
A **No.**
Q Have you done any counseling at Planned Parenthood?
A **Yes.**
Q Was that counseling part of the surgical assistant responsibilities?
A **Yes.**
Q And what else were the responsibilities of the surgical assistants at the time you were doing that?
A **Assisting with the doctors during procedures.**
Q What type of procedures?
A **Abortion.**
Q First term?
A **First term and second term.**

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Q Any late term, third term medically necessary abortions that you assisted in?
A **On occasions.**
Q And can you give me an approximate number?
A **Since I've been there or --**
Q Yes.
A **10 plus.**
Q I'm sorry?
A **More than 10.**
Q More than 20?
A **Maybe 15.**
Q I understand that you don't have a perfect memory or perfect database to go to for this information, so we do deal with approximates a lot. And if you're uncomfortable giving me an approximate, let me know, but otherwise it's okay to do that. Do you understand that?
A **Yes.**
Q What we don't want you to do is guess and give me some answer that you have no basis for. Do you understand that?
A **Yes.**
Q Have you ever assisted in a procedure known as partial birth abortion?
A **No.**
Q Have you ever witnessed one?

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A **No.**
Q So you assisted in counseling the patients and assisted in procedures of the surgical assistant. What other responsibilities did you have?
A **Basically making the patients comfortable during their visit.**
Q So patient care?
A **Yes.**
Q Post-procedure?
A **Yes.**
Q And would you typically be involved with the patient in counseling -- strike that.
Does it work like where a patient comes in and you're assigned to the patient to provide counseling and then to assist in the procedure and be involved all the way from start to finish? Do you handle different segments just depending on patient flow?
A **Different segments.**
Q And in the counseling that you referenced, is that something that's done pre-procedure?
A **Yes.**
Q Have you ever been -- strike that.
You worked on February 27th 1999, correct?
A **Yes.**
Q And you were working as a surgical assistant

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Q Okay. And what did you tell her in response, if anything?
A I just told her to turn her head and look the other way.
Q You had indicated before that you had participated as an assistant in first, second, and third term abortions; is that correct?
A Yes.
Q In your capacity as a surgical assistant during first term abortions, would you have anything to do with holding -- what is it -- the cannula?
A No.
Q Would that be primarily the doctor's responsibility to control the cannula?
A Yes.
Q Did you have anything to do with turning on or off the vacuum aspirator?
A On occasions.
Q And is the tubing on the vacuum aspirator translucent? Can you see through the tubing?
A No.
Q Do you know that uterine contents are flowing up once the vacuum aspirator is turned on and the abortion begins?
A Yes.

Q And you know that includes some human byproducts and products of conception, right?
A Yes.
Q And has that always been your understanding since you attended Concord?
A Yes.
Q You also indicated that -- and can you give me an estimate as to the number of first term abortions you've assisted in?
A Since working at Planned Parenthood or --
Q Well, since you graduated from Concord.
A Just a lot.
Q And you had also indicated that you participated in second term abortions; is that correct?
A Yes.
Q And often, aside from the vacuum aspirator, there's other methods in performing abortion including dilation and evacuation?
A Yes.
Q Have you ever participated in dilation and evacuation?
A Yes.
Q And does that involve the removal of products of conception from the woman's body?
A Yes.

Q And typically is there some bleeding involved in that?
A Yes.
Q Okay. And how many of those procedures have you participated in?
A A lot.
Q Hundreds?
A Since being a medical --
Q Uh-huh.
A Yes.
Q And based on your counseling experience with Planned Parenthood and having trained with Planned Parenthood, is that typically a distressful time for the woman involved?
A Yes.
Q And part of your job -- to deal with high emotions is part and parcel of your job duties; is that true?
A Yes.
Q And do you consider yourself to be pretty good at dealing with these high emotions?
A Yes.
Q And did it take a while to get used to or is it something you think you were sort of called to do?
A It took a while.

Q Would you say that in some sense you're desensitized to the high emotions of the women involved in the abortion decision?
A Yes.
Q Now have you ever participated in the saline abortion?
A No.
Q But you do know that that's something that's been performed in the past as an option to dilation and evacuation; is that correct?
A Yes.
Q Were you given any training at Concord in saline abortion procedures?
A No.
Q Do you have any understanding as to how those are performed?
MR. McELROY: Objection; not reasonably calculated.
MR. ACKERMAN: It goes to the injury.
MR. McELROY: She's never been trained in them.
BY MR. ACKERMAN:
* Q Have you ever seen pictures of saline abortions?
MR. McELROY: This is not reasonably calculated.
MR. ACKERMAN: Yes, it is.
MR. McELROY: It's not reasonably calculated to

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lead to the discovery of admissible evidence, and I'm going to instruct her not to answer the question.

MR. ACKERMAN: Okay.

BY MR. ACKERMAN:

Q Have you ever participated in any other type of second term abortion aside from dilation and evacuation, maybe a vacuum aspiration at the beginning of the second term?

Obviously you said you hadn't participated in the saline abortion. Have you operated in other types of procedures that take place during the second term?

A No.

Q Now you had indicated that you had, in fact, participated in a third term medically necessary abortion; is that correct?

A Yes.

Q And were you in the operating room right next to the patient?

A Yes.

Q Is it not true that that procedure cannot be performed by vacuum aspiration?

A Yes.

Q And is it not always true that the ordinary method for performing a third term abortion would be dilation and evacuation?

A Yes.

*** Q And also, I would assume that you understand, from a medical perspective, that in a third term abortion the fetus can be viable if the umbilical cord is cut, correct?**

MR. McELROY: Objection; this is not reasonably calculated. I'm going to instruct her not to answer the question.

BY MR. ACKERMAN:

Q You had indicated that one of the things that upset you was the pictures that my client had showed you.

Is it your testimony that those are inaccurate depictions of fetuses?

A Yes.

Q Those are inaccurate?

A Yes.

Q Okay. What's inaccurate about them?

A The fetuses don't always look like the ones that are shown on the picture.

Q Do they sometimes?

A Yes, on occasions.

Q So you've seen fetuses from actual procedures that looked like that?

A Yes.

Q Was that distressing to you the first time you

saw that in an operating room?

A No.

Q Was it the fact that my client was holding the picture that made it more upsetting to you?

A Yes.

Q So if a doctor were holding the fetus, that wouldn't upset you?

A No.

Q Have you ever been asked to arrange for the disposal of human remains following a third term abortion?

A No.

*** Q Is it your opinion that my clients don't have a right to complain about these procedures?**

MR. McELROY: Objection; it's not reasonably calculated, and I'm instructing her not to answer the question.

MR. ACKERMAN: You don't think it goes toward attitude toward the action of my clients?

MR. McELROY: I don't know what attitude toward the action --

MR. ACKERMAN: You want me to pull out the Evidence Code?

MR. McELROY: You need to let me finish my sentence because we're on the record.

MR. ACKERMAN: Finish your sentence.

MR. McELROY: I don't know what attitude toward the action has got to do with anything.

MR. ACKERMAN: Would you mind, do you have a copy of the Evidence Code? Do you want to entertain me?

MR. WATKINS: Just mark it and move on. He's not going to change his opinion.

MR. McELROY: I'm not going to debate it with you.

MR. ACKERMAN: We'll debate it in court. That's fine.

BY MR. ACKERMAN:

Q Are you a licensed phlebotomist?

A I have a certificate.

Q Do you have any licenses issued by the Board of Consumer Affairs of the State of California?

A No.

Q Okay.

Have you ever drawn blood in your capacity as a medical assistant at the Planned Parenthood facility?

A Yes.

Q Do you know how many other employees were present at Planned Parenthood on February 27th of '99?

A Between 10 and 12.

Q Do you know of any other lawsuits brought by

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EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL DISTRICT

MARIE WILKERSON, AVECITA MUCINO, VANESSA AYALA, PLANNED PARENTHOOD OF SAN DIEGO AND RIVERSIDE COUNTIES, Plaintiffs,	)	
vs.	)	Case No. 728883
KENNETH TYLER SCOTT, RONALD D. BROCK, CHERYL SULLENGER, SYLVIA SULLIVAN, TROY NEWMAN, JO ANN KRIEPEL, and DOES 1-100, Inclusive, Defendants.	)	

DEPOSITION OF AVECITA MUCINO, taken by the Defendants, at 625 Broadway, Suite 1400, San Diego, California, commencing at 4:41 p.m., Wednesday, November 14, 2001, before CHERYL M. BOLEY, CSR No. 9512, pursuant to Notice.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

APPEARANCES:
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For the Defendant Ronald D. Brock:

UNITED STATES JUSTICE FOUNDATION
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WITNESS:
AVECITA MUCINO

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* QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER

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EXHIBITS

DEFENDANTS'	DESCRIPTION	MARKED
(None)		

SAN DIEGO, CALIFORNIA, WEDNESDAY, NOVEMBER 14, 2001
AT 4:41 P.M.
---o0o---

AVECITA MUCINO,
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. WATKINS:

Q Can you please state your name and spell your full name for the record.

A My name?

Q Please.

A Avecita Mucino.

Q Will you spell that, please.

A A-V-E-C-I-T-A, M-U-C-I-N-O.

Q Do you have a middle name?

A No, I don't.

Q Ms. Mucino, as I mentioned earlier, my name is Dan Watkins, and I represent Ken Scott and we're going to ask you questions very much like we did with Ms. Wilkerson. And I won't go over all the admonitions, but I want to remind you that you are under oath, just like you would be under oath in a court of law. Do you

understand that?

A Yes.

Q And please make sure you understand my question so that there's no confusion between the two of us and what we're talking about.

If there's any ambiguity in your mind, point it out and I'll restate the question in a different way. Do you understand that?

A Yes.

Q What's your date of birth, ma'am?

A 12/5/62.

Q I'm sorry?

A 12/5/62.

Q Have you ever had your deposition taken before?

A No.

Q Are you employed?

A Yes.

Q How so? Who are you employed by?

A Planned Parenthood.

Q How long have you been with Planned Parenthood?

A Three years.

Q So when did you start? I should have asked that.

A October '98.

Q Before we go into your work at Planned

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Parenthood, do you have a high school diploma?
A No. I have a GED.
Q When did you accomplish that?
A 1985.
Q Other than the GED, do you have any other education?
A Medical assistant.
Q So you went to a medical assistant's course?
A Yes.
Q Where was that?
A Los Angeles, California.
Q The name of the school?
A Bryman School.
Q Can you spell that?
A B-R-Y-M-A-N.
Q Thank you.
And what was the -- what did you study there as a medical assistant?
A Patient care and vital signs and lab.
Q I'm sorry?
A Lab. Laboratory.
Q Oh, lab work?
A Uh-huh, lab work. And phlebotomist.
Q Is Bryman a school that's designed to provide medical assistant education for family planning?

A No.
Q It's general medical assisting?
A General.
Q Did you learn any surgical procedures there, how to assist in surgical procedures at Bryman?
A No surgical. Well, yes, surgical procedure like assisting a doctor in any surgical procedure, not a certain procedure.
Q Just general surgical procedures?
A Right.
Q Did you study anatomy?
A Only what is involved in the course, no more.
Q Well, did you have a course on anatomy?
A No, not that specific, just anatomy.
Q What?
A But -- well, of course, because the course involves anatomy.
Q So in relationship to the different subjects that you studied, you studied anatomy as it applied to, for example, your surgical procedures?
A Right.
Q So it was kind of part and parcel to the other courses that you were studying?
A Yes.
Q And when did you complete your coursework at

Bryman?
A '87, '88.
Q Do you have any other educational experiences other than Bryman?
A No.
Q And how have you been employed since completing Bryman? What was your first job after that?
A Family Planning Associates Medical Group.
Q Oh, Associates Medical Group?
A Uh-huh.
Q Is that a "yes"?
A Yes.
Q And were you a medical assistant there?
A Yes.
Q What were your job responsibilities?
A Taking vital signs and lab work.
Q Did you do counseling?
A No.
Q Did you assist in any procedures?
A Yes.
Q Did you assist in first term abortions?
A Yes.
Q Did you assist in second term abortions?
A No.
Q How about did you ever assist in a medically

necessary third term abortion?
A No.
Q Have you ever assisted in a partial birth abortion?
A Can you explain that?
Q If you don't understand the term, then you don't have to answer the question. Do you know what a partial birth abortion is?
A No.
Q Have you ever heard that term?
A No.
Q Approximately how many times did you assist in first term abortions at Family Planning Associates Medical Group?
A A lot of times.
Q I'm sorry?
A A lot of times, I can't --
Q More than 100?
A Yes.
Q More than 500?
A I don't know.
Q Hundreds?
A Yes.
Q I'll let Mr. Ackerman question you on the different types of procedures. I'm not familiar with

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those.
How long were you with Family Planning Associates Medical Group?
A **From '89 to -- 1989 to '97.**
Q Excuse me. 1989 through 1997?
A **No, 1989 --**
Q Right.
A **-- to 1997.**
Q So about eight years?
A **Yes.**
Q Were you a medical assistant the entire time?
A **Yes.**
Q And during that eight-year period you did not do any counseling?
A **No.**
Q And after leaving Family Planning Associates, is that when you went to Planned Parenthood?
A **Yes.**
Q Did you work anywhere else in between the two?
A **No.**
Q And what were your job responsibilities when you started at Planned Parenthood?
A **Surgical services assistant.**
Q And what were your responsibilities as a surgical services assistant?

A **Counseling patients, assisting the doctor in the procedures.**
Q Post-procedure care as well?
A **No.**
Q And have you counseled hundreds of different patients?
A **Yes.**
Q Have you -- again, the counseling that you're providing, is that before the procedure?
A **Yes.**
Q The procedures that you've assisted with Planned Parenthood, do these include first term abortions?
A **Yes.**
Q Second term abortions?
A **Yes.**
Q And third term abortions? Have you assisted in any of those?
A **What do you mean by third?**
Q An abortion that occurs in the third trimester for medical reasons or otherwise.
A **No.**
MR. ACKERMAN: Can we go off the record?
(Off the record)
BY MR. WATKINS:
Q Approximately how many first term abortions have you assisted with at Planned Parenthood?
A **I don't know.**
Q Hundreds?
A **Yes.**
Q Would it be more than 100?
A **Maybe, yes.**
Q Well, don't guess, and don't give me an answer just because you think I want it. I'm just trying to get an estimate from you. If it's not 100, it's not --
A **More than 100.**
Q How about second term abortions? How many of those?
A **About the same.**
Q And are you still a surgical services assistant?
A **Yes.**
Q I'm looking at at least one declaration that you've signed in this case dated March 11, 1999, and it makes reference to an incident on February 27, 1999.
Do you have memory of something occurring on February 27, '99, an incident?
A **Yes.**
Q Are there any other incidents that you're complaining of as part of this lawsuit aside of what happened on February 27, 1999?
A **No.**

Q And are you -- prior to February 27, 1999, did you ever work on a Saturday at Mission Valley Planned Parenthood?
A **Yes.**
Q And did you work on Saturdays as part of that rotation that we discussed with Ms. Wilkerson, just it would come up maybe two times a month you'd work on Saturdays?
A **No. Two shifts, either you work Monday through Friday or Tuesday through Saturday. So I was on the Tuesday through Saturday schedule.**
Q And did you work every Saturday then?
A **Yes.**
Q Do you continue to work every Saturday?
A **No.**
Q So initially when you were employed at Planned Parenthood, you were working every Saturday, Tuesday through Saturday?
A **Yes.**
Q When did that change?
A **About a year and a half ago.**
Q Why did that change?
A **Because of my needs of my family. I needed to have Saturday off to spend more time with my family.**
Q I don't want to get into your private life.

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COMMITTEE ON MORAL CONCERNS

Art Croney, *Executive Director/Lobbyist*
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P.O. Box 2768
Sacramento, CA 95812

August 13, 2002

Assembly Third Reading

Please vote **NO** on **SB 1301** (Kuehl); abortion.

This bill would recast California's Therapeutic Abortion Act, calling it the Reproductive Privacy Act and bringing it in line with U.S. Supreme Court decisions starting with Roe v. Wade. The bill anticipates, prematurely we believe, the overturning of the Supreme Court's 1973 judgment. The Committee On Moral Concerns opposes this bill for the following reasons:

1. The bill finds and declares that "every individual possesses a fundamental right of privacy with respect to personal reproductive decisions" (page 4, lines 26-28). We agree. However, the bill later conflicts with its own declaration. Biologically, the life of the individual human being begins at the moment of conception. The bill gives certain individuals (women) the right to abort and fatally interfere with the reproductive right of other individuals (their sons and daughters who are living and growing, but not yet born).

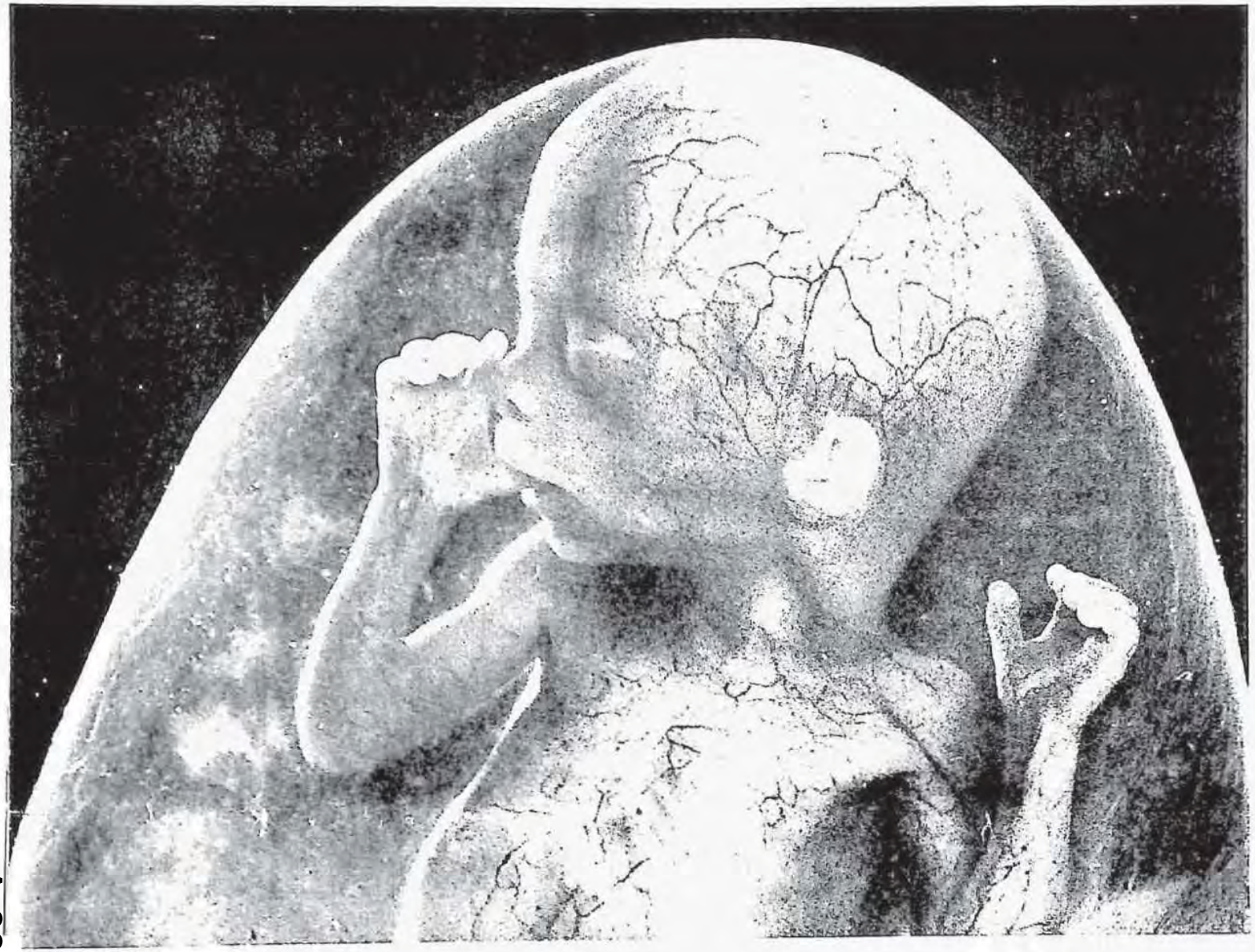
2. The bill defines pregnancy as "beginning with the implantation of an embryo." This is politically convenient, but ungrounded in scientific reality. We know where babies come from. Pregnancy begins at conception. That is the principle on which in vitro fertilization works. Also, conception is the *only* time in our lives when our fathers had any contribution to our genetic characteristics. When an embryo fails to exit the fallopian tube this becomes a life-threatening ectopic *pregnancy*. Doctors and scientists who are unmotivated by politics know that pregnancy occurs before implantation in the uterus.

3. The bill defines "viability" as the point when the human fetus may survive outside the uterus. This is another political term lacking real meaning. As individuals, some of us could survive outside the womb earlier than others, just as some of us could survive in the wilderness longer. Again, the bill's findings recognize individuals, but subsequent language clouds that recognition.

4. The bill allows abortion any time before birth. Under Section 123468 (b) (2), aborting a viable human fetus is legal, if continuing the pregnancy until birth poses "no risk to the life or *health* of the pregnant woman." Since there is no such thing as an absolutely risk-free childbirth, under the bill, there is no such thing as an illegal abortion, as long as the abortionist is licensed.

Art Croney

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18 WEEKS

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OPPOSE NON-PHYSICIAN ABORTIONS

OPPOSE SB 1301

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CALIFORNIA PROLIFE

August 12, 2002

ASSEMBLY FLOOR ALERT

RE: SB 1301—Reproductive Privacy Act—Removes "physician-only" requirement for abortions (by Senator Sheila Kuehl)—OPPOSE

California ProLife Council, on behalf of its members, respectfully asks that you oppose **SB 1301**, by Senator Sheila Kuehl, which would replace the 1967 Therapeutic Abortion Act with the "Reproductive Privacy Act." From our perspective both of these acts have serious flaws, however **SB 1301** will jeopardize the lives of the women of California due to its repeal of the requirement that only physicians may do abortions. Clear language to assure that only physicians and surgeons are authorized to do abortions is a minimum the women of California should expect.

Current law requires in Section 123405 of the Health & Safety Code, that abortions be done by "a holder of the physician's and surgeon's certificate." The operative language left in California law with the revisions of **SB 1301** would allow non-physicians to perform "nonsurgical" abortions—such as RU 486, methotrexate, or other drug abortions.

Section 123405 would be replaced with Section 123468 of the Reproductive Privacy Act, which drops the reference to physicians and surgeons and states: "The performance of an abortion is unauthorized if . . . the following is true: (a) The person performing or assisting in performing the abortion is not a health care provider authorized to perform or assist in performing an abortion pursuant to Section 2253 of the Business and Professions Code."

In Sections (b)(1) and (b)(2) of 2253, a distinction is made between surgical and non-surgical abortions. Section (b)(1) allows NON-PHYSICIAN medical professionals with the appropriate certificate (whatever that means) TO ASSIST in the performance of SURGICAL abortions. ***Most significantly, Section (b)(2) allows NON-PHYSICIAN medical professionals, again with the appropriate certificate, TO PERFORM or assist in performing NON-SURGICAL abortions.***

As recently as April 19, the federal Food and Drug Administration posted a letter on their website from Danco Laboratories, the manufacturer of RU 486, informing physicians that two women have died after RU 486 abortions, and one 21 year-old suffered cardiac arrest—a rare occurrence in a woman that age. The two who died suffered a bacterial infection in one case and a uterine rupture due to an undiagnosed ectopic pregnancy in the other. Another near-fatal bacterial infection, and two additional uterine ruptures due to undiagnosed ectopic pregnancies prompted Danco and the FDA to release the warning and ask physicians to report any additional "adverse events."

Please oppose SB 1301. When members of this Legislature gave prescriptive authority to nurse midwives and nurse practitioners, surely few would have envisioned that they would be doing RU 486 abortions on your minor daughters without your knowledge.

California ProLife Council, Inc.
The California Affiliate of the National Right to Life Committee
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PLEASE OPPOSE SB 1301, WHICH WOULD ALLOW NON-PHYSICIANS TO DO DRUG ABORTIONS. (California ProLife Council, Sacramento, CA)

Los Angeles Times
latimes.com

Abortion Pill Under Scrutiny After Deaths

By JANE E. ALLEN
TIMES STAFF WRITER

April 22 2002

Six women who took the abortion pill mifepristone have become ill and two of them have died, although no direct link has been established between the medication and their illnesses, according to the manufacturer and the Food and Drug Administration.

Danco Laboratories of New York last week sent a letter about the cases to all doctors, clinics and hospitals that prescribe the pill, Mifeprex (formerly known as RU-486), which is given with the drug misoprostol. The letter, which the FDA posted on the Internet, reminded them to report any serious adverse effects such as death, hospitalization or blood transfusion.

Three of the women suffered ruptures of their ectopic pregnancies, which typically occur in the Fallopian tubes instead of the uterus. Such pregnancies, which make up about 2% of all pregnancies, should be carefully ruled out before prescribing the two-drug regimen, Danco reminded doctors. One of the three women died from excessive bleeding. Two other women developed serious bacterial infections, one with a rare bacterium called Clostridium sordellii. That woman died, although neither the company nor the FDA believes that the drug regimen played a role in either case. Such body-wide infections have in the past been associated with menstruation, childbirth, miscarriage and abortion, but "we do not believe that Mifeprex and misoprostol present a special risk of infection," the company wrote.

The sixth woman, a 21-year-old, suffered a heart attack but later recovered. FDA officials continue to review her case. Women who take the two-drug regimen first take mifepristone, which interferes with a fetus' attachment to a woman's body, followed by misoprostol to cause contractions. The contractions help expel the fetus.

The abortion pill was first used in France. Doctors there initially paired it with a different drug to cause contractions, but after that drug was associated with heart attacks, it was replaced with misoprostol. The latter drug hasn't been linked to heart trouble.

Mifepristone hit the U.S. market 17 months ago, when the FDA approved its use within the first seven weeks of pregnancy; Danco began shipping it in November 2000.

Danco spokeswoman Heather O'Neill declined to say how many U.S. women have used it, adding that the information is proprietary. She characterized the six cases as "an extremely small incidence relative to the overall use."

She warned women taking the drug that the biggest clue that something could be wrong "is the absence of response to the regimen." Most users will begin to bleed and complete the pregnancy termination four

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to 24 hours after taking misoprostol; bleeding typically is heavier than a normal period.

According to an FDA official who spoke on condition of anonymity, the agency worked with the company to draft the letter advising doctors about the cases, but "there was no urgency on the part of the agency to think the Mifeprex was dangerous, or that any action needed to be urgently taken."

According to "Mifepristone Questions and Answers" that the FDA posted on its Web site, the women who became ill received the misoprostol vaginally, instead of in pill form, and "the FDA has not reviewed data on the safety and effectiveness of vaginal administration of misoprostol." The agency also said that it didn't know "what role, if any, Mifeprex and 'off-label' use of vaginal misoprostol may have in developing serious infections."

Abortion opponents said the safety alert highlights the dangers of nonsurgical abortions. "The FDA approved RU-486 under intense political pressure, and now women are suffering the consequences," said Wendy Wright, senior political director of Concerned Women for America. "We warned the public that this would happen when the drug was approved. RU-486 is harmful to women."

Supporters maintain that nonsurgical abortion with the pill is still a safer alternative to surgical abortion. "This remains a very safe and effective way to terminate an early pregnancy," said Vicki Saporta, president and chief executive of the National Abortion Federation.

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RU486
The Abortion Pill

Risks and Dangers

Despite heavy publicity by the pill's promoters claiming that the RU486/prostaglandin method is a safe and effective alternative to surgical abortion [1,5] controlled testing has offered a very different picture.

Is it Dangerous?

In France, a woman suffered heart failure and died after taking RU486 in combination with its accompanying prostaglandin.[2] In America, one of the women participating in the U.S. trial of RU486 nearly bled to death after taking the abortion drugs (see reverse).

Every RU486 abortion involves at least two drugs, RU486 (also call mifepristone) and a prostaglandin (PG), usually misoprostol. These drugs are dangerous for a number of reasons.

RU486 is a complex chemical molecule affecting mulitple systems of the body.[3] This is why it has effects not only on a woman's reproductive system, but her cardiovascular, digestive, and central nervous sytems as well.[3] Misoprostol, the prostaglandin ordinarily used in conjunction with RU486, has its own side effects, triggering the painful, often nauseating, contractions that expel the dead baby.[4]

Because of the pain, bleeding, nausea, fevers, and other side effects, these drugs are often further supplemented by additional drugs such as antispasmodics,[5] antibiotics, narcotic analgesics, etc.,[3] each of which comes with it own attendant risks and side effects and potential interaction problems.

In England, one of the first countries where the drug is allowed, all pills are numbered to ensure that they are not released to untrained personnel.[3] In France, the country with the most experience with the drug, the government requires that any facility dispensing the drug have an electrocardiograph and emergency resuscitative equipment nearby.[6]

Does it sound safe and simple to you?

SAFETY WARNING

Women with any of the following conditions have been kept out of tests of RU486 for fear that the drug might prove dangerous or deadly for them.

- ❍ **Presence of cardiovascular risks, including high blood pressure, obesity, cigarette smoking, and diabetes ❖, [17]**
- ❍ **Asthma and bronchitis ◢**
- ❍ **Age over 35 or under 18 ❖, [17]**
- ❍ **Menstrual irregularity, fibroids or endometriosis ❖**
- ❍ **Use of IUD or oral contraceptive less than 3 months prior to conception ❖, [17]**
- ❍ **History of problem pregnancy, current ectopic pregnancy, or pelvic inflammatory disease *, [17]**
- ❍ **Allergies, epilepsy, or adrenal insufficiency ◢**
- ❍ **Recent intake of steroid or anti-inflammatory medications ◢**
- ❍ **Long term administration of cortisone or similar drugs ◢ ***
- ❍ **History of liver, stomach, intestinal, or kidney disease *, [17]**

If only women in perfect physical condition can endure the drug...

How safe can it be?

❖Raymond, RU486: Misconceptions(1991); ◢Silvestre, NEJM, 3/8/90; *Couzinet, NEJM, 12/18/86

COMPLICATIONS ?

There are over 1.3 million abortions performed in the U.S. each year.[7] We are told that 20-33% of abortions performed in France are chemical abortions.[8,18] If U.S. use mirrored French use, and U.S. abortion rates remained stable, one could expect the following numbers of complications based on current clinical data:

Complication [5,17]		Expected U.S. Range		Resulting #'s of Complications
8%	failure to complete abortion	X 273,146 - 450,691	=	21,852 - 36,055 "failures" per year
2%	hemorrhaging	X 273,146 - 450,691	=	5,463 - 9,014 hemorrhaging per year
2%	surgical intervention to stop bleeding	X 273,146 - 450,691	=	5,463 - 9,014 surgical interventions/yr
1%	require hospitalization	X 273,146 - 450,691	=	2,731 - 4,507 hospitalizations per year
(4)	transfusions	X 273,146 - 450,691	=	515 - 850 transfusions per year

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An Iowa Doctor gives a first hand account

The woman who took RU486... and nearly died

Between October of 1994 and Labor Day of 1995, a nationwide trial of RU486 was conducted. A Planned Parenthood clinic in Des Moines was one of the testing sites. News accounts said the trial went well without any problems. One Iowa doctor who saw the story said he knew better.

I could hardly believe my eyes when I read the first paragraph of an article in the Sept.2, Des Moines Register, "The clinical test of the 'abortion pill' has ended in Iowa, with no complications among 238 women who ended unwanted pregnancies without surgery."

This is untrue, and I can only surmise that the reason must have to do with the political volatility of the abortion issue. Regardless, it is imperative from a scientific standpoint that if Planned Parenthood is to be part of a nationwide clinical trial, it must report the facts whether they agree with them or not... (A)

In November of 1994, I was called to the Alan Hospital Emergency Room in Waterloo, Iowa, for a woman who was bleeding due to a miscarriage and was in obvious shock. A blood test showed that she had lost between one-half and two-thirds of her blood volume. For those of you who understand this, her hemoglobin was 5.8 and her hematocrit was 17.3. Her blood pressure was 90 over 60, her pulse was 120, she was in obvious shock.

I had thought she was having an incomplete miscarriage, but her husband took me into the hall and told me that she had taken RU486 approximately 2 weeks before. It was my clinical opinion that she would die soon if she did not have an immediate D&C.

Without even doing the routine preparation we normally do for surgery, I realized that I had to take her immediately to surgery to save her life. I took her to the operating room and removed the contents of her uterus surgically. I gave her two units of packed red blood cells intraoperatively. Even later that evening, 2 hours post-transfusion of those two units, her hemoglobin was still 6.8 and her hematocrit was 20 something. She required two more units of blood because she was still orthostatic and symptomatic...(B)

To report to the people of Iowa, the Population Council, and to the FDA that there were "no complications" in Iowa is simply not true...(A)

If near death due to the loss of half of one's blood volume, surgery, and a transfusion of four units of blood do not qualify as a complication, I don't know what does. (A)

How did the clinic and the trial sponsor respond?

[President of Planned Parenthood of Central Iowa Jill] June said "no complications" refers to the trial – that the trial was conducted successfully – and not to the condition of the participants.

However, Sandra Waldman, a spokeswoman for the New York based Population Council, which sponsored the trial, said the trial resulted in "no deaths or serious complications." When asked whether Louviere's patient's experience qualifies as a serious complication, Waldman said it would be "within the context of what happened before [in France]." (C)

Sources:
A. Dr. Mark Louviere, *Waterloo Courier*, 9/24/95.
B. Statement of Mark Louviere, MD, FDA Mifepristone (RU486) Hearings, 7/19/96.
C. Tom Carney, *Des Moines Register*, 9/21/95.

"If near death due to the loss of half of one's blood volume, surgery, and a transfusion of four units of blood do not qualify as a complication, I don't know what does." – Mark Louviere, M.D.

Nasty Side Effects

Part of the Package

Pain

79%-96% of women taking the RU486/PG combination reported pain, [4, 17] so bad that as many as half required some form of analgesia, whether an opiate or some other injectable painkiller. [3, 4, 5, 17]

Three researchers who reviewed much of the data on RU486 say "many of the women in these studies experienced pain for several days/weeks until the abortion was complete. Thus we are talking about prolonged, not transient pain, although this is rarely noted." [3]

Nausea, Diarrhea, and Vomiting

Between 24% and 61% of RU486/PG patients experience nausea as part of the procedure. About one in five of all women struggle with diarrhea, while 15.3%-26%, or up to a quarter, vomit. [3, 5, 17]

Infection

In one trial, as many as 5%, or 1 in 20, showed signs and symptoms of infection. [9] Fevers and chills, often indications of infection, are not unexpected side effects of the process. [5] Antibiotics often must be prescribed for suspected infections. [10]

If and when an RU486/PG abortion is unsuccessful (anywhere from 8%-23% of the time [17]), and there is an incomplete abortion, the risk of infection is much greater. [13, 14] Whatever supposed benefit chemical abortion has over surgical abortion is lost when a woman undergoes the surgical procedure with its attendant risks.

Other Side Effects

Fatigue, [13] fainting, skin conditions, anemia, asthenia, hot flashes, heart palpitations, breast conditions, [5] mood changes, thirst. [14]

Long Term Consequences

Unknown. Few independent studies. RU486 does cross the blood follicle barrier and get into a woman's ripening eggs.[3] Could this affect the reproductive systems of a woman's later children, as DES did?

Researchers regard heavy, prolonged bleeding as the chief problem and most serious side effect of chemical abortions. [3] The *average* blood loss from an RU486 abortion is reported to be 70ml, nearly four times the average blood loss from a normal suction curettage abortion [15] and very close to the 80ml menstrual blood loss doctors consider "abnormal." [16] This is hardly the "heavy period" spoken of by some of the pill's promoters. [18]



In a 1990 British study, five out of 579, or nearly 1%, bled so much that they required both transfusions and curettage to stop the bleeding. [3] In U.S. trials with a new prostaglandin (misoprostol) that was supposed to resolve such problems, "excessive bleeding" was noted in 4 out of 230 women who participated in the Des Moines part of the study. [12] What "excessive bleeding" means is unclear, but we do know that one of those women almost bled to death (see above). Several women in the U.S. trial had to be given uterotonic agents to stop the bleeding. [17]

It is not merely the amount of blood lost but how long a woman bleeds that is a medical concern. Normally, the bleeding may last one or two weeks, but there are records of women bleeding as much as two months or more. [3, 5, 17]

There is additional concern because only about half of women who take RU486 actually abort at the doctor's office, meaning 50% of more face their bleeding and abortion without medical supervision. [17]

NOTES: 1. Baulieu, *The "Abortion Pill"* (1991); Baulieu, in *Clinical Applications of Mifepristone* (1993); Lang, *Vogue*, August 1988. 2. Riding, *NY Times* 4/10/91. 3. Raymond, *et al. RU486: Misconceptions* (1991). 4. McKinney, *Human Reproduction* (1993), pp. 1502-5. 5. FDA, Mifepristone Hearings, 7/19/96. 6. French Government Letter, April 12, 1990. 7. Henshaw, "Abortion Services in the United States, 1995-1996," *Family Planning Perspectives* (Nov/Dec 1998). 8. Gianelli, *Americal Medical News* 4/12/93. 9. Birth Control Trust, Conference, 4/22/93. 10. WHO Study, *Fertility & Sterility* (1991). 11. Aubeny and Baulieu, *C.R. Acad. Sci. Paris (III)* (1991), pp. 539-545. 12. Iouzaitis, *Chicago Tribune*, 8/30/95. 13. Sitruk-Ware, *Contraception* (1990), pp. 221-243. 14. Li, *Fertility & Sterility* (1988), pp. 732-742. 15. *Ob Gyn. News* (1989), No. 24, p. 1. 16. Speroff, *Clinical Gynecological Endochrinology & Infertility*, 3rd ed. (1983). 17. Spitz, *NEJM*, 4/30/98. Website, www.popcouncil.org, 1/98.

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ASSEMBLY REPUBLICAN CAUCUS FLOOR AMENDMENT ANALYSIS

SB 1301 (Kuehl) **File Item**

Set 1 by Leslie (RN 0216646) **Across the Desk:** 3:28pm, 8/15/02

Support

Summary: This amendment reinstates the requirement that a licensed physician be required to perform non-surgical abortions in contrast to this bill's authorization that a nurse or other non-licensed physician could administer drugs to perform an abortion.

Comments:

1. This bill recasts statutory law pertaining to abortion based upon the Roe v. Wade holding of the 1973 U.S. Supreme Court; and also provides that a nurse could prescribe pharmacological agents, such as RU-486, in lieu of existing California statutory law requiring a licensed physician to perform an abortion. The bill also further diminishes the role of parents in the upbringing of their minor children in stating as public policy that "every individual" has a fundamental right "to choose to bear a child or to choose and to obtain an abortion."
2. This amendment would maintain the physician only requirement for performing abortions. This would address one of the substantial changes in abortion law that this bill would otherwise make since California enacted a legalized abortion law in 1967. This amendment restores a protection for women to ensure that a licensed physician perform such abortion rather than run the risk of having potently dangerous drugs administered by a non-physician; and that could lead to serious health risk or death to the women.
3. The drug RU-486 is considered a regimen of several medications, which in the judgment of a non-physician could have serious health risks and consequences when used for the purpose of inducing an abortion. The Federal Drug Administration (FDA) reported in April of this year that two women died and four others became seriously injured after taking RU-486. The appropriate administration of such potent pharmacological agents to women for such purposes should be limited to licensed physicians.

Consultant: Mark Redmond

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Analyzed: 8/16/02

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SENATE THIRD READING
SB 1301 (Kuehl)
As Amended April 8, 2002
Majority vote

SENATE VOTE: 22-12

JUDICIARY	8-2	HEALTH	13-6
Ayes:	Corbett, Dutra, Jackson, Longville, Shelley, Steinberg, Vargas, Wayne	Ayes:	Thomson, Chan, Chavez, Cohn, Frommer, Goldberg, Koretz, Negrete McLeod, Richman, Salinas, Strom-Martin, Washington, Wayne
Nays:	Bates, Robert Pacheco	Nays:	Robert Pacheco, Aanestad, Bates, Dickerson, Runner, Zettel

APPROPRIATIONS	17-4
Ayes:	Steinberg, Alquist, Aroner, Cohn, Corbett, Daucher, Diaz, Firebaugh, Goldberg, Negrete McLeod, Papan, Pavley, Simitian, Washington, Wiggins, Wright, Zettel
Nays:	Bates, Ashburn, Robert Pacheco, Dickerson

SUMMARY: Deletes various statutory provisions regarding abortion and enacts in their place a new state Reproductive Privacy Act. Specifically, among other things, this bill:

1) Deletes scattered sections pertaining to reproductive privacy issues and enacts a new California Reproductive Privacy Act, which provides that "it is the public policy of the state of California that: a) every individual has the fundamental right to choose or refuse birth control; b) every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article; and c) the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically permitted by this article."

2) Repeals Health and Safety Code Section 123410 and in its place provides that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

3) Provides that the performance of an abortion is unauthorized if either of the following is true:

   a) The person performing or assisting in the abortion is not a health care provider authorized to perform or assist in an abortion pursuant to Business and Professions Code Section 2253; or,

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b) The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.

4) Deletes the reference to the "Therapeutic Abortion Act" and instead provides that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

5) Provides that a person is subject to criminal penalties: a) if he or she assists at a surgical abortion and does not have a valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or, b) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.

6) Provides that for the purposes of this section, "nonsurgical abortion includes termination of pregnancy through the use of pharmacologic agents."

EXISTING LAW:

1) Authorizes, in the Therapeutic Abortion Act, that a holder of a physician's and surgeon's certificate may perform an abortion only if it takes place in an accredited hospital and is approved by a committee that finds that: a) there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother; and/or, b) the pregnancy resulted from rape or incest.

2) Has declared, through case law, that the medical criteria and approval processes for obtaining an abortion contained in state codes are unconstitutional. (Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983) 462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.)

3) Provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy.

4) Has invalidated this section's requirement that an abortion must be approved by a medical committee. (People v. Barksdale, supra, 8 Cal. 3d. at 328. Questions remain as to its validity regarding prohibition on abortions after the 20th week of pregnancy. (See, e.g., 65 Ops. Atty. Gen. 261; and Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.))

FISCAL EFFECT: According to the Assembly Appropriations analysis, negligible fiscal impact.

COMMENTS: If one were to rely solely on a review of California's statutes regarding our laws regulating abortion, he or she would end up with a substantial misconception about the current state of this law. For, as the author notes in support of this legislation, many of our statutes governing abortion have been rendered obsolete by federal and state Supreme Court decisions. The problem is, they still remain on the books, and have yet to be repealed or modified in accordance with controlling case law. The result, she notes, "is a cryptic, often inconsistent abortion code that is laden with constitutional problems." The author also states that these

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outdated statutes also single out abortions for unnecessary regulation that has not been imposed on more complex procedures, and the existing statutes fail to address and accommodate major advances in medical practice, such as early abortion methods like mifepristone (otherwise known as and hereafter referred to as RU-486).

According to the author, this bill, sponsored by Planned Parenthood, addresses these problems comprehensively by:

1) Protecting Californians' fundamental right to choose a safe and legal abortion (even if the Supreme Court further reduces the federal protections contained in Roe v. Wade).

2) Providing greater access to early abortion methods like RU-486 by eliminating arbitrary barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health.

3) Deleting language in current state law that has been found unconstitutional in state and federal courts.

4) Treating abortion like other comparable medical procedures, and allowing healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

5) Allowing for future advancements in medical science relative to non-surgical abortion techniques by not limiting them, while simultaneously clarifying that medication-induced abortions is an appropriate method to be included among other non-surgical abortion techniques.

In support of these changes, the author concludes with this comment:

> We have an anti-choice President, an anti-choice Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade. Now is the time to protect our right to choose - right here in California. SB 1301 will keep abortion safe and legal in California even if the Supreme Court overturns Roe.

The state's existing abortion law, called the Therapeutic Abortion Act, was signed by former Governor Ronald Reagan and took effect in 1967. This act provided for women's access to abortion services, but spelled out various conditions that had to be met before a woman could obtain an abortion. In the 1970's, a number of sections were added to the Therapeutic Abortion Act, primarily dealing with "conscience clause" issues and the treatment of fetal remains.

Several current abortion statutes are invalid and appropriate for repeal. In 1972, the California Supreme Court declared several provisions of the Therapeutic Abortion Act, those requiring prior approval by a medical committee, and limiting approval to cases of rape, incest, or where the pregnancy threatened to "gravely impair" the physical or mental health of the mother, impermissibly vague and therefore unconstitutional. (People v. Barksdale.) Other provisions facilitating these statutes, those requiring the input of the DA, establishing the proper formation of the medical committee, and defining "mental illness" for the purposes of the Act, were declared invalid as well. (Id. at 334.)

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The following year, the U.S. Supreme Court declared that a right of personal privacy exists under the Constitution, and that this right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." (Roe v. Wade.) An explicit right to privacy added to the California Constitution in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in Roe v. Wade. (Committee to Defend Reproductive Rights v. Myers (1981).)

In 1997, the California Supreme Court invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion. (American Academy of Pediatrics v. Lungren (1997).) Thus, this bill's proposed repeal of the above-referenced provisions is consistent with current law.

Thus, since its inception in 1967, a number of state and federal court decisions have rendered various provisions of the state's Therapeutic Abortion Act wholly or partly invalid, and have left the validity of other provisions open to serious question. Despite their unconstitutionality, however, these provisions have remained largely unchanged in the state's Health and Safety Code, because the Legislature has never repealed or modified them in accordance with, or in response to, these court decisions. This bill finally addresses this confusing statutory situation by deleting the provisions of the Therapeutic Abortion Act that have been ruled unconstitutional. The bill also revises certain other provisions as well, including the name of the state's reproductive rights act. In its place, the bill enacts a new Reproductive Privacy Act, as further detailed below.

This bill's provisions appear consistent with judicially established parameters for the regulation of abortion. Under the parameters established in Roe v. Wade, the right of personal privacy outweighs any legitimate state interest in a woman's pregnancy until the end of the first trimester of that pregnancy. After the first trimester, a state may regulate abortion in ways "reasonably related" to protecting maternal health, and at the point the fetus becomes viable, the state may regulate and/or prohibit abortions in the interest of protecting the "potentiality of human life" of the viable fetus, except where abortion is necessary to preserve the life or health of the mother.

This bill allows appropriately licensed or certified health care professionals to perform or assist in performing nonsurgical abortions, which will permit the administration of approved early-abortion facilitating drugs such as RU-486. This expansion of abortion rights appears wholly consistent with Roe's mandate that states may not interfere with a woman's right to terminate her pregnancy in the first trimester.

This bill also continues to require abortions to be performed by appropriately licensed health care professionals; subjects those who do not comply with the Reproductive Privacy Act to professional discipline; and subjects unlicensed abortion providers to criminal sanctions, in conformity with current law.

In conformity with Roe v. Wade, this bill also prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

Analysis Prepared by: Drew Liebert / JUD. / (916) 319-2334 FN: 0006135

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PPAC

Planned Parenthood®
Affiliates of California, Inc.

Providing responsible choices through advocacy and political action.

To: Members of the California State Assembly
From: Planned Parenthood Affiliates of California
Date: August 8, 2002

RE: Support SB 1301 (Kuehl)

FLOOR ALERT

SB 1301

Planned Parenthood Affiliates of California (PPAC) is proud to co-sponsor Senate Bill 1301, by Senator Kuehl, which will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. *SB 1301 is Planned Parenthood Affiliates of California's top priority*, because the Reproductive Privacy Act protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please vote AYE on SB 1301 when it is heard on the Assembly floor.

SB 1301 will be included in the Planned Parenthood Affiliates of California Reproductive Health Legislative Scorecard.

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555 Capitol Mall, Suite 510 • Sacramento, California 95814-4581 • Phone (916) 446-5247 • Fax (916) 441-0632 • www.ppacca.org

CALIFORNIA PROLIFE

August 16, 2002

ASSEMBLY FLOOR ALERT
RE: SB 1301—Reproductive Privacy Act

Support Assemblyman Tim Leslie's Amendments to Restore Provisions for "Physician-Only" Abortions

SB 1301 could be on the Assembly floor as soon as Monday, August 19. At that time Assemblyman Tim Leslie will offer amendments to restore the 35 year old requirement that only physicians may perform abortions in California, which would otherwise be removed by SB 1301.

Regardless of whether you intend to support or oppose the Reproductive Privacy Act, we beseech you to seriously consider support for Assemblyman Leslie's amendments.

One can't help but see great irony in degrading the quality of care for women seeking abortions at the very time we are reading almost daily about the difficulties of protecting health care patients from unscrupulous providers.

There is no evidence that drug-induced abortions are any safer than surgical abortions. Indeed there is evidence to the contrary, including 2 recent deaths—and not enough experience with drug abortions to consider broadening the pool of abortion providers to those with even less medical expertise than those providing abortions today.

On April 19, the federal Food and Drug Administration posted a letter on their website from Danco Laboratories, the manufacturer of RU 486, informing physicians that two women have died after RU 486 abortions, and one 21 year-old suffered cardiac arrest—a rare occurrence in a woman that age. The two who died suffered a bacterial infection in one case and a uterine rupture due to an undiagnosed ectopic pregnancy in the other. Another near-fatal bacterial infection, and two additional uterine ruptures due to undiagnosed ectopic pregnancies prompted Danco and the FDA to release the warning and ask physicians to report any additional "adverse events."

Danco claims these "adverse events" are statistically insignificant, yet they will not reveal how many RU 486 abortions have been performed. What we do know is that RU 486 has not been popular among either physicians or patients, so the number that have been performed could be significant to judge whether these "adverse events" are significant or not. We do know that the most common complication of use of RU 486 is hemorrhage—hemorrhage serious enough to require transfusions in some cases.

Let's not create an even larger pool of unscrupulous providers to prey upon the poorer members of our communities, and our teenagers, who often seek abortion services without the benefit of the counsel of the people who care about them most—their parents.

Please support the Leslie amendments to SB 1301. Let's not put California at the forefront of further jeopardizing the lives of the women.

California ProLife Council, Inc.
The California Affiliate of the National Right to Life Committee
2306 J Street Suite 200 • Sacramento, CA 95816
916.442-8315 • (fax) 916.441.7508 - www.californiaprolife.org

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Senate Bill No. 1301 Chapter 385

Year 2002 Regular Session

Author Kuehl

Date Received Aug. 22, 2002

Last Day to Act Sept. 30, 2002

Action of Governor Sept. 5, 2002

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

ENROLLED BILL MEMORANDUM TO GOVERNOR

BILL NO: SB 1301 **AUTHOR:** Kuehl **DATE:** 08/24/02 **DATE DUE:** 9/30/02

SENATE: 22-12 **ASSEMBLY:** 50-25

REVIEWED BY: **RECOMMENDATION:** Sign ☐ Veto ☐

SUMMARY: This bill proposes to repeal the Therapeutic Abortion Act and enact the Reproductive Privacy Act. The Reproductive Privacy Act would provide, among other things, that every individual possesses a fundamental right of privacy with respect to reproductive decisions, including the fundamental right to choose or refuse birth control, and to choose to bear a child or obtain an abortion. The bill would prohibit the state from denying or interfering with a woman's fundamental right to choose abortion prior to the viability of the fetus or when necessary to protect her life or health. This bill would clarify that non-physician health care providers may legally assist with surgical abortions and/or perform, or assist in performing, non-surgical abortions.

SPONSOR: Planned Parenthood Affiliates of California

SUPPORT: Health and Human Services Agency
Department of Health Services
Department of Finance

OPPOSITION: None received.

FISCAL IMPACT: The bill would not have any fiscal impact to the Department of Health Services because it does not result in any additional workload or costs.

ARGUMENTS IN SUPPORT: Proponents argue that this bill would affirmatively establish the fundamental right to reproductive privacy in California statute and would conform with the tenets of Roe v. Wade that prohibits state interference with a woman's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman.

ARGUMENTS IN OPPOSITION: According to the opponents, this bill prematurely anticipates a reversal of the Supreme Court decision Roe v. Wade. The Committee on Moral Concerns (CMC) opposes the bill for several reasons. First, it asserts that the bill's declaration of an individual's fundamental right of privacy conflicts with a right to abortion, which invades the privacy of the aborted fetus. Second, the CMC disputes the bill's definition of pregnancy ("the human reproductive process, beginning with the implantation of embryo") and "politically convenient, but ungrounded in scientific reality." The CMC further argues that the bill's apparent restrictions on abortion of a viable fetus are meaningless, since they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant woman.

BACKGROUND INFORMATION: According to the author, many of the California statutes governing abortion have been rendered obsolete by federal and state Supreme Court decisions,

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but remain on the books because they have never been repealed or modified in accordance with more law. The end result is a cryptic, often inconsistent abortion code that is laden with constitutional problems." These outdated statutes also single out abortions for unnecessary regulation that doesn't apply to more complex procedures, and fail to address and accommodate advances in medical practices, which are early abortion methods like mifepristone (RU-486).

This bill would delete provisions found unconstitutional by state or federal courts, would eliminate barriers to the use of early, nonsurgical abortion methods, and would affirmatively protect the right to a safe and legal abortion in California. The author concludes, "we have an anti-choice President, and anti-choice Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade. Now is the time to protect our right to choose – right here in California. SB 1301 would keep abortion safe and legal in California even if the Supreme Court overturns Roe.

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385

Board of Supervisors



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WEB PAGE ADDRESS:http://www.co.sanmateo.ca.us FAX: (650) 599-1027

August 20, 2002

Governor Gray Davis
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 1301 (Kuehl)—SUPPORT—Reproductive Privacy Act

Dear Governor Davis:

On behalf of the County of San Mateo Board of Supervisors, I write in support of SB 1301 (Kuehl) relating to the abortion privacy rights of Californians.

In addition to deleting obsolete provisions of California law relating to abortion rights, SB 1301 would continue to protect Californians even if the Supreme Court subsequently overturns Roe v. Wade. With increasing awareness, the San Mateo County Board of Supervisors has recognized the importance of protecting the privacy interests of individuals. Protecting the privacy rights of a person to choose or refuse birth control and to choose to bear a child or obtain an abortion rises in importance with the current political climate at the federal level.

The State Commission on the Status of Women as well as the San Mateo County Commission on the Status of Women supports this bill. The County of San Mateo Board of Supervisors wishes to join their efforts in supporting SB 1301. Should you have any questions or concerns about our position, please feel free to contact Ross Nakasone at 650-599-1345 or email him at Rnakasone@co.sanmateo.ca.us.

Sincerely,

Jerry Hill, President
Board of Supervisors
County of San Mateo

cc: San Mateo County Delegation
Senator Kuehl

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3 8 5

California Primary Care Association

CPCA

August 26, 2002

The Honorable Gray Davis
Governor of California
State Capitol Building
Sacramento, CA 95814

RE: SB 1301 (Kuehl) - Support

Dear Governor Davis:

The California Primary Care Association (CPCA) is a health policy and advocacy organization representing a network of over 500 non-profit, community-based clinics that provide care to all Californians without regard to their ability to pay. CPCA supports SB 1301 (Kuehl), which is awaiting your signature.

SB 1301 will provide greater access to early abortion methods like mifepristone (RU-486) by eliminating barriers that currently impede the ability of licensed health care professionals in our clinics to treat patients in the area of reproductive health. This bill treats abortion like other comparable medical procedures and allows healthcare providers, acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

In clinic settings, midlevel practioners play an increasingly important role in providing reproductive health care services. The clinic model integrates a team approach - which relies more heavily on midlevels (such as nurse practioners) to assist physicians in providing services. This bill is complimentary to the clinic model in that it acknowledges the need for midlevel practitioners to be included in the delivery of this procedure.

We urge your signature on SB 1301.

Sincerely,

Melanie Moreno
Policy Analyst

cc: The Honorable Sheila Kuehl

Carmela Castellano, Esq., Chief Executive Officer
1215 K Street Suite 700 • Sacramento, CA 95814 • 916/440-8170 • 916/440-8172 (fax) • www.cpca.org

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William J. Demsher

8173 Pequenia Avenue
Atascadero, Ca., 93422

Telephone 805-461-1481

September 13, 2002

Governor Gray Davis
State Capital
Sacramento, CA 95814

Dear Governor Davis,

As a California taxpayer, I strongly urge to VETO SB 1301, REPRODUCTIVE PRIVACY ACT.

Thank you.

William J. Demsher

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CHP 385

PIERCE FAMILY CHIROPRACTIC CENTER

16389 Bolsa Chica Street, Huntington Beach, CA 92649-2664 (714) 840-7001 Fax: (714) 840-4423

September 9, 2002

Governor Gray Davis
State Capitol, First Floor
SACRAMENTO CA 95814

Re: Please VETO SB 1230, SB 253, [redacted], SCR 55 & AB 2194

Gov. Gray Davis:

Please veto the above referenced legislation. Please be a leader in morality for our State and our children.

Sincerely,

Lee D Pierce DC

Lee D. Pierce, D.C.

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CHP 385

L.A. GAY & LESBIAN CENTER

McDonald/Wright Building
1625 N. Schrader Blvd.
Los Angeles, CA 90028
Tel: 323/993-7400
Fax: 323/993-7699
TDD: 323/993-7698

California AIDS Clearinghouse
1443 N. Martel Ave.
Los Angeles, CA 90046
Tel: 323/845-4180
Fax: 323/845-4193

Jeff Griffith Gay & Lesbian Youth Ce ter
7051 Santa Monica Blvd.
Los Angeles, CA 90038
Tel: 323/461-8163
Fax: 323/461-8172

Lambda Medical Group
Primary Health Care &
Audre Lorde Lesbian
Health Clinic
Museum Square Building
5757 Wilshire Blvd.
Promenade, Suite 2
Los Angeles, CA 90036
Tel: 323/860-7311
Fax: 323/993-7477

The Village at
Ed Gould Plaza
1125 N. McCadden Pl.
Los Angeles, CA 90038
Tel: 323/860-7302
Fax: 323/860-7340

www.lagic.org

September 9, 2002

TO ENROLLED BILL FILE

The Honorable Gray Davis
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

RE: AB 2197 (Koretz), AB 2216 (Keeley), AB 2651 (Chu), AB 2930 (Wright), SB 564 (Speier), [redacted] (Kuehl), SB 1661 (Kuehl) SB 1734 (Vasconcellos), & SB 1785 (Vasconcellos): REQUEST FOR SIGNATURE

Dear Governor Davis:

On behalf of the L.A. Gay & Lesbian Center, I strongly encourage you to sign the following bills into law: AB 2197 (Koretz), AB 2216 (Keeley), AB 2651 (Chu), AB 2930 (Wright), SB 564 (Speier), SB 1301 (Kuehl), SB 1661 (Kuehl) SB 1734 (Vasconcellos), & SB 1785 (Vasconcellos).

AB 2197 (Koretz): Medi-Cal Benefits for Non-disabled Persons Living with HIV. This bill will would establish a cost-neutral, statewide pilot program to expand Medi-Cal to the non-disabled HIV population. AB 2197 would require the Department of Health Services to seek all necessary federal waivers to allow Medi-Cal managed care enrollment to individuals with HIV who are not disabled but who would otherwise qualify for Medi-Cal based on income. This legislation seeks to fund expanded coverage through savings generated by increasing the voluntary enrollment of the AIDS disabled population into Medi-Cal managed care. By expanding Medi-Cal through savings elsewhere, and maintaining the federal match in the AIDS Drug Assistance Program, this proposal provides a fiscally responsible solution. In addition, the proposal would free up Ryan White Care Act dollars for other needs in the HIV/AIDS community.

AB 2216 (Keeley): Inheritance Rights for Domestic Partners. This bill would give a surviving domestic partner the right to inherit a specified share of a partner's separate property if a partner dies without a will.

AB 2651 (Chu): Nondiscrimination in Foster Care. This bill would explicitly prohibit discrimination and harassment based on race, color, religion, ancestry, ethnicity, national origin, physical or mental disability, medical condition, sex, including gender identity, or sexual orientation in the foster care system. It would also help to identify foster

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afford the loss of income.

SB 1734 (Vasconcellos): Clean Needle and Syringe Exchange Projects. This bill would allow individuals participating in needle exchange programs to distribute devices or substances used to keep needles clean, without being subject to criminal prosecution. It additionally extends the requirement for a declaration of local public health emergency to be made annually. These technical changes will make it easier for needle exchange programs to continue to operate disease prevention activities.

SB 1785 (Vasconcellos): Syringe Pharmacy Sale and Disease Prevention Act. This bill would remove prohibitions on purchasing up to 30 clean needles and syringes without a prescription from a licensed pharmacist, with built-in provisions related to safe disposal and the distribution of information to purchasers on disease prevention and referrals to substance abuse services.

Thank you for your leadership in helping to enact legislation that would improve the lives of all Californians.

Very truly yours,

Rebecca Isaacs, Interim Executive Director

C: Eric Bauman
Richard Figueroa

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

COMMITTEE ON MORAL CONCERNS RF

Art Croney, *Executive Director / Lobbyist*
Office: (916) 446-5131
FAX: (916) 446-5744

P.O. Box 2768
Sacramento, CA 95812

September 4, 2002

Governor Gray Davis
State Capitol
Sacramento, CA 95814

Dear Governor Davis:

Please veto SB 1301 (Kuehl). This bill would recast California's Therapeutic Abortion Act, calling it the Reproductive Privacy Act and bringing it in line with U.S. Supreme Court decisions starting with Roe v. Wade. The bill anticipates, prematurely we believe, the overturning of the Supreme Court's 1973 judgment.

The bill finds and declares that "every individual possesses a fundamental right of privacy with respect to personal reproductive decisions" (page 4, lines 26-28). We agree. However, the bill later conflicts with its own declaration. Biologically, the life of the individual human being begins at the moment of conception. The bill gives certain individuals (women) the right to abort and fatally interfere with the reproductive right of other individuals (their sons and daughters who are living and growing, but not yet born).

The bill defines pregnancy as "beginning with the implantation of an embryo." This is politically convenient, but ungrounded in scientific reality. We know where babies come from. Pregnancy begins at conception. That is the principle on which in vitro fertilization works. Also, conception is the *only* time in our lives when our fathers had any contribution to our genetic characteristics. When an embryo fails to exit the fallopian tube this becomes a life-threatening ectopic *pregnancy*. Doctors and scientists who are unmotivated by politics know that pregnancy occurs before implantation in the uterus.

The bill defines "viability" as the point when the human fetus may survive outside the uterus. This is another political term lacking real meaning. As individuals, some of us could survive outside the womb earlier than others, just as some of us could survive in the wilderness longer. Again, the bill's findings recognize individuals, but subsequent language clouds that recognition.

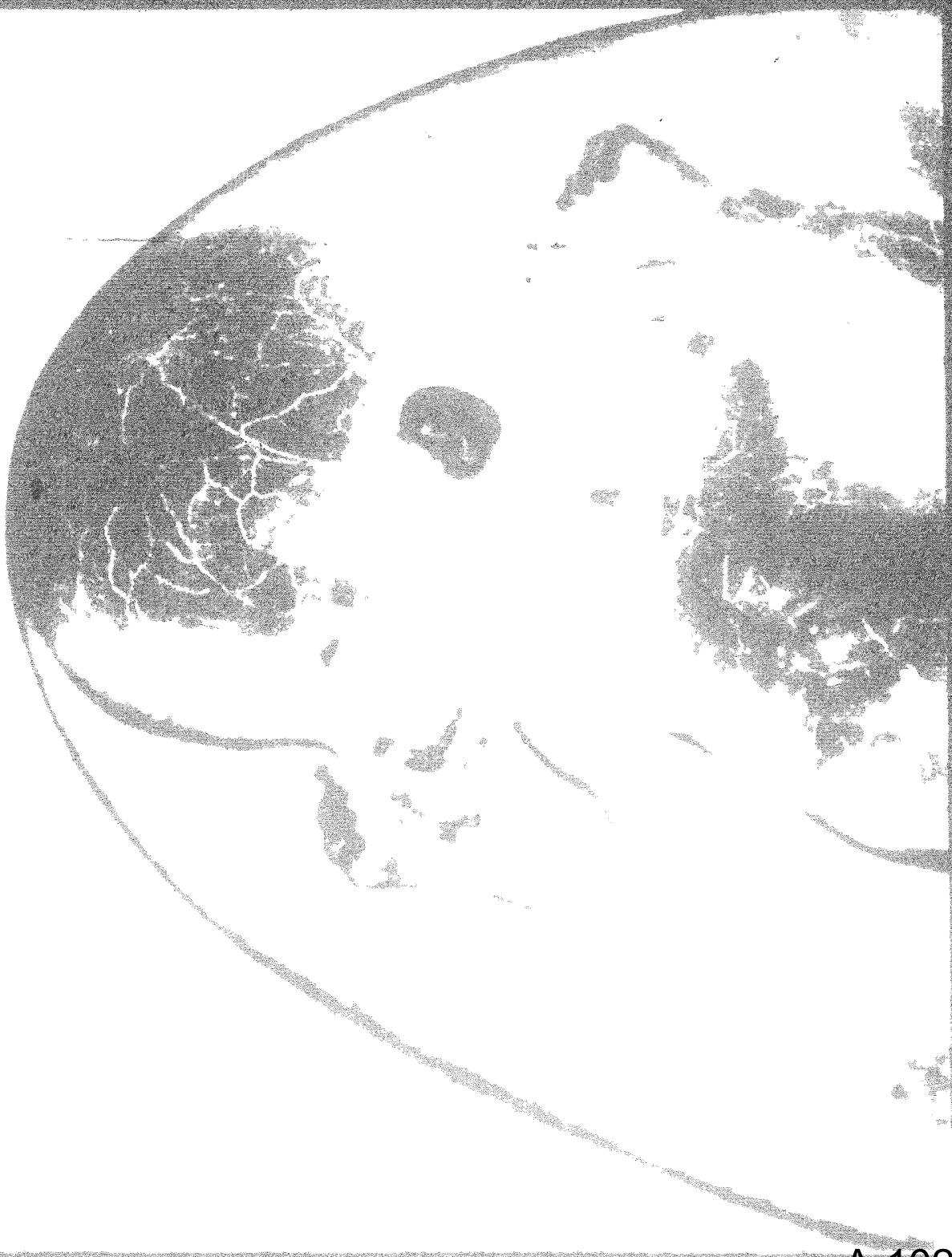
The bill allows abortion any time before birth. Under Section 123468 (b)(2), aborting a viable human fetus is legal, if continuing the pregnancy until birth poses "no risk to the life *or health* of the pregnant woman." Since there is no such thing as an absolutely risk-free childbirth, under the bill, there is no such thing as an illegal abortion, as long as the abortionist is licensed. Thank you for your consideration.

Sincerely,

Art Croney

Art Croney

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Chap 383

UNIVERSITY OF CALIFORNIA, LOS ANGELES **UCLA**

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DIVISION OF GENERAL INTERNAL MEDICINE
& HEALTH SERVICES RESEARCH
UCLA DEPARTMENT OF MEDICINE
911 BROXTON AVENUE
LOS ANGELES, CALIFORNIA 90024

September 10, 2002

Honorable Governor Gray Davis
State Capitol Building
Sacramento, CA 95814

Dear Governor Davis:

Thank you for signing AB 1860, SB 1301, AB 2194, and AB 797. It is refreshing to have a leader in office who still supports a woman's right to choose. I am especially grateful for your support of AB 2194, as I work in a doctor's office and was so surprised to learn that abortion is not taught in most schools. This seems egregious to me, as an OB/GYN may be required to perform one in order to save a woman's life, let alone be asked to perform an elective abortion for a patient.

Thank you again for your continued support for women's issues.

Sincerely,

Christiann Savage
Los Angeles

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Chp 385

Governor Gray Davis
State Capitol Building
Sacramento, Ca 95814

Dear Governor Davis,

As women and as a healthcare providers, we are writing to thank you for your commitment to a woman's right to choose. By signing A.B. 797, A.B. 2194, A.B. 1860 and [redacted], the reproductive rights and overall health of California women will be protected. On September 5, 2002, you demonstrated your strong commitment to and understanding of women's reproductive health care, and have advanced the public health status of our states women. I applaud your efforts to keep abortion safe and legal. The voices of California's women have been heard across the nation and will hopefully serve as a catalyst for change under the conservative extreme of the Bush administration.

Pregnancy Consultation Center
5301 F Street • Suite 10
Sacramento • CA 95819
916 • 446-0222
fax • 452-1796

We appreciate your ongoing support of women's rights.

Sincerely,

Pregnancy Consultation Center of Sacramento

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

CHP 385

DIOCESE OF ORANGE

OFFICE OF THE AUXILIARY BISHOP
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ORANGE CALIFORNIA 92613-1595
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FAX: (714) 282-3029
BISHOPJSOTO@RCBO.ORG

September 3, 2002

Governor Gray Davis
State Capitol Building
Sacramento, CA 95814

Dear Governor Davis:

I am writing to urge you to veto SB 1301, the Reproductive Privacy Act.

This bill will only further undermine the health and safety of the women and children of California. Good public policy should not further denigrate the dignity of women and children by ignoring the essential nature of human life that is destroyed by each abortion performed.

The dignity of each person is a public matter, not a private one. Do not sign this measure. This is not sound health care policy.

I am very disappointed in those members of the California Legislature who have supported this measure. I ask you to demonstrate good judgment and moral courage by vetoing SB 1301.

Please advise me of your disposition in this matter. Be assured of my prayers as you deliberate this and other matters of concern to Californians.

Respectfully,

Most Reverend Jaime Soto
Auxiliary Bishop
Diocese of Orange

CC: Assemblymember Lou Correa
State Senator Joseph Dunn

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Chp 385

NWPC-MENDOCINO

NATIONAL WOMEN'S POLITICAL CAUCUS of MENDOCINO
Post Office Box 1140, Ukiah, California 95482

August 29, 2002

Governor Gray Davis
State of California
State Capitol
Sacramento, Ca. 95814

Dear Honorable Governor Davis:

The Mendocino Chapter of the National Women's Political Caucus urges you to sign SB 1301 (Kuehl) into law. This reproductive privacy act would ensure access to reproductive choices, including legal abortions even if federal courts overturn Roe v. Wade. SB 1301 would replace the state of California's 1967 Therapeutic Abortion Act and repel several inconsistent statutes concerning abortions. In their place would be protections for women currently implied by court decisions concerning abortion but not written in law. We at the Mendocino Chapter of NWPC look to you, our Governor to protect the women of our great state of California.

Sincerely,

NWPC of Mendocino Co.

National Women's Political Caucus
of Mendocino County

Win with Women

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

California National Organization for Women
[illegible] Street, Suite 121 Sacramento, CA 95814
916-442-3111 Fax 916-442-7685 www.canow.org

AHP 395

August 28, 2002

The Honorable Gray Davis
Office of the Governor
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 1301 (Kuehl) – SUPPORT

Dear Governor Davis:

The California National Organization for Women (NOW) thanks you for your continuing support of reproductive rights for women. California NOW is proud to co-sponsor SB 1301 (Kuehl), The Reproductive Privacy Act. SB 1301 would ensure California women's access to safe and legal abortion.

SB 1301 would increase access to safe and early non-surgical abortion methods by allowing qualified health practitioners, such as physician's assistants and nurse practitioners, to provide mifepristone (RU 486) under physician supervision. SB 1301 would also delete obsolete provisions in current law that have been found to be unconstitutional and unenforceable by the courts and would establish a contemporary reproductive rights law that protects a woman's legal right to choose an abortion.

The Reproductive Privacy Act would ensure that women in California have the freedom to exercise their constitutional right to make decisions regarding their own reproductive health. We urge you to help protect women's reproductive freedom by signing this very important measure.

Sincerely,

Elizabeth McGovern
Legislative Director

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Est. 1972 with 80,000 members and donors, and chapters throughout the state
Megan Seely President ◆ **Helen Grieco** Executive Director ◆ **Elizabeth McGovern** Legislative Director ◆ **Elena Perez** Program Director
Rosemary DaSilva Political Affairs Director ◆ **Mandy Benson** Field Director ◆ **Nikki Ragsac** Executive Assistant
Rachel Allen Public Relations Director ◆ **Iris Caplan** Development Director

PPAC

Planned Parenthood
Affiliates of California, Inc.

CHP 36

August 30, 2002

Governor Gray Davis
State Capitol Building
Sacramento, CA 95814

Dear Governor Davis:

SB 1301 (Kuehl) has recently arrived on your desk, and we know you are looking forward to signing it into law. SB 1301 will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

Two weeks ago, our office delivered over 7,000 postcards from supporters of SB 1301 to members of the California State Assembly, and recently we delivered nearly 800 postcards to you. These postcards are gathered from all of California, and urge you to support SB 1301. As these postcards keep coming in, we will forward them to you, as we are today.

We appreciate the support you have already lent to Senator Kuehl's bill, and send these postcards as encouragement and validation. The people of California support SB 1301.

Thank you for your unwavering support of reproductive rights in California.

Sincerely,

Sue Dunlap
Vice President of Public Policy

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

555 Capitol Mall, Suite 510 • Sacramento, California 95814-4581 • Phone (916) 446-5247 • Fax (916) 441-0632 • www.ppacca.org

PPAC
Planned Parenthood
Affiliates of California, Inc.
Providing responsible choices through sex education and reproductive health

CHP 305

August 30, 2002

The Honorable Gray Davis
Governor, State of California
State Capitol Building
Sacramento, CA 95814

RE: SB 1301 (Kuehl) – Request Signature

Dear Governor Davis:

On behalf of Planned Parenthood, I am writing to urge you to sign SB 1301, by Senator Sheila Kuehl. SB 1301 will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future.

Planned Parenthood Affiliates of California is proud to sponsor SB 1301, the Reproductive Privacy Act, which will protect women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

SB 1301 increases access to early, non-surgical methods of abortion by allowing nurse practitioners, certified nurse midwives, and physician assistants, to perform non-surgical abortion pursuant to their current scope of practice.

SB 1301 further provides that mid-level healthcare providers, *acting within their scope of practice and under the supervision of a physician*, are allowed to assist in the performance of surgical and non-surgical abortions, including medical abortions.

The Reproductive Privacy Act eliminates the unconstitutional and unenforceable provisions of state law to reflect California's current status as an innovative leader in ensuring its people have the freedom to exercise the constitutional right to make decisions regarding their own reproductive health.

Please ensure that California remains a leader in the endeavor to protect reproductive freedom by signing SB 1301 into law.

Sincerely,

Sue Dunlap
Vice President of Public Policy

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PPAC

Planned Parenthood
Affiliates of California, Inc.
Providing responsible choices through advocacy and political action

CHP 385

August 22, 2002

Governor Gray Davis
State Capitol Building
Sacramento, CA 95814

Dear Governor Davis:

SB 1301 (Kuehl) will be arriving on your desk very soon. SB 1301 will ensure that California has a constitutionally sound reproductive rights law that protects privacy rights, now and in the future. SB 1301, the Reproductive Privacy Act, protects women by ensuring reproductive health care services are performed in the safest manner possible while eliminating the stigma the law has historically placed on the option of abortion services.

Last week, our office delivered over 7,000 postcards from supporters of SB 1301 to members of the California State Assembly. Today, we are delivering nearly 800 postcards to you. These postcards are gathered from all of California, and urge you to support SB 1301.

We appreciate the support you have already lent to Senator Kuehl's bill, and send these postcards as encouragement and validation. The people of California support SB 1301.

Thank you for your unwavering support of reproductive rights in California.

Sincerely,

Sue Dunlap
Vice President of Public Policy

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Legislative Counsel of California

August 23, 2002

Honorable Gray Davis
Governor of California
Sacramento, CA 95814

SENATE BILL NO. 1301

Dear Governor Davis:

Pursuant to your request, we have reviewed the above-numbered bill authored by Senator Kuehl and, in our opinion, the title and form are sufficient and the bill, if chaptered, will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

Lara K. Bierman

By
Lara K. Bierman
Principal Deputy

LKB:dlm

Two copies to Honorable Sheila James Kuehl, pursuant to Joint Rule 34.

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A-1029 PE - 20

UNOFFICIAL BALLOT

2001-2002 Votes - ROLL CALL

MEASURE: SB 1301
TOPIC: Reproductive Privacy Act.
DATE: 08/19/02
LOCATION: ASM. FLOOR
MOTION: SB 1301 Kuehl Senate Third Reading By Jackson
(AYES 50. NOES 25.) (PASS)

AYES
****

Alquist	Aroner	Cancamilla	Cardenas
Cardoza	Cedillo	Chan	Chavez
Chu	Cohn	Corbett	Correa
Daucher	Diaz	Dutra	Firebaugh
Florez	Frommer	Goldberg	Hertzberg
Horton	Jackson	Keeley	Kehoe
Koretz	Liu	Longville	Lowenthal
Matthews	Migden	Nakano	Nation
Negrete McLeod	Oropeza	Papan	Pavley
Reyes	Richman	Salinas	Shelley
Simitian	Steinberg	Strom-Martin	Thomson
Vargas	Wayne	Wiggins	Wright
Zettel	Wesson		

NOES
****

Aanestad	Ashburn	Bates	Bogh
Briggs	Bill Campbell	John Campbell	Cogdill
Cox	Dickerson	Hollingsworth	Kelley
La Suer	Leach	Leonard	Leslie
Maddox	Maldonado	Mountjoy	Robert Pacheco
Pescetti	Runner	Strickland	Wyland
Wyman			

ABSENT, ABSTAINING, OR NOT VOTING
****

Calderon	Harman	Havice	Rod Pacheco
Washington			

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UNOFFICIAL BALLOT

2001-2002 Votes - ROLL CALL

MEASURE: SB 1301
TOPIC: Reproductive Privacy Act.
DATE: 05/16/02
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB1301 Kuehl
(AYES 22. NOES 12.) (PASS)

AYES
****

Alarcon	Alpert	Bowen	Burton
Chesbro	Costa	Dunn	Escutia
Figueroa	Kernette	Kuehl	Machado
McPherson	O'Connell	Ortiz	Perata
Polanco	Romero	Scott	Sher
Speier	Torlakson		

NOES
****

Ackerman	Battin	Brulte	Haynes
Johnson	Knight	Margett	McClintock
Monteith	Morrow	Oller	Poochigian

ABSENT, ABSTAINING, OR NOT VOTING
****

Johannessen	Murray	Peace	Soto
Vasconcellos	Vincent		

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HEALTH AND HUMAN SERVICES AGENCY

ENROLLED
BILL REPORT

A-1032

CONFIDENTIAL-Government Code §6254(f)

Department/Bureau	Bill Number/Author
HEALTH SERVICES	SB 1301 Kuehl
Sponsor	Related Bills	Chaptering Order (if known)
Planned Parenthood Affiliates of California ☐ Author Sponsored Proposal Number	None	☐ Attachment
Subject		
Reproductive Privacy Act		

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SUMMARY

SB 1301 proposes to repeal the Therapeutic Abortion Act and enact the Reproductive Privacy Act. The Reproductive Privacy Act would provide, among other things, that every individual possesses a fundamental right of privacy with respect to reproductive decisions, including the fundamental right to choose or refuse birth control, and to choose to bear a child or obtain an abortion. The bill would prohibit the state from denying or interfering with a woman's fundamental right to choose abortion prior to the viability of the fetus or when necessary to protect her life or health. SB 1301 would clarify that non-physician health care providers may legally assist with surgical abortions and/or perform, or assist in performing, non-surgical abortions.

PURPOSE OF THE BILL

SB 1301 seeks to clarify existing law by specifically establishing in statute the right to reproductive privacy.

RECOMMENDATION AND SUPPORTING ARGUMENTS

SIGN. Federal and state court holdings have invalidated most sections of the Therapeutic Abortion Act as currently found in Health and Safety Code Sections 123400 et seq. Repealing the statute to clarify the right to reproductive privacy in California is in order to ensure continued access to abortion as a reproductive health service.

Departments That May Be Affected	
☐ New/Increased Fee ☐ Governor's Appointment ☐ Legislative Appointment ☐ State Mandate ☐ Urgency Clause	
Department Director Position ☒ Sign ☐ Veto ☐ Defer to:	Agency Secretary Position ☒ Sign ☐ Veto ☐ Defer to:
Department Date Kimberly Belshé 2/11/02	Agency Secretary Date [illegible]

PE - 23

ANALYSIS

- The law regulating therapeutic abortion in California is a mix of statute, state and federal decisional law, and state Attorney General opinions spanning over three decades. California's Therapeutic Abortion Act ("Act"), found in Health and Safety Code Section 123400, *et.seq.*, was enacted in 1967.

- During the past decade, several state and federal case holdings have invalidated various sections of the Therapeutic Abortion Act. (People v. Barksdale (1972) 8 Cal.3d 320, found Health and Safety Codes Sections 123405(b), 124306(c), 123407, part of 123410, and 123416 to be invalid. Roe v. Wade, (1973) 410 U.S. 113, implicitly invalidated language in Health and Safety Code Section 123410 which states that "under no circumstances shall termination (of a pregnancy) be approved after the 20th week;" Akron v. Akron Center for Reproductive Health (1983), 462 U.S. 416, effectively invalidated Health & Safety Code Section 123405(a), American Academy of Pediatrics v. Lungren (1997) 16 Cal. 4th 307, which invalidated Health & Safety Code Section 123450 regarding parental consent for minors seeking abortion services.)

- Health and Safety Code Section 123410 is the only remaining requirement of the original Therapeutic Abortion Act that has not been invalidated by any court. This section provides that only licensed physicians and surgeons in California may provide abortions. (See Cal. Attorney General Opinion 90-926, June 1991.) Non-compliance is deemed to be unprofessional conduct. Therefore, non-physicians who participate in the provision of abortions services, including nurses who dispense medications used in abortion procedures and nurse practitioners and physician assistants who assist with abortion procedures are at risk for disciplinary action for unprofessional conduct under current law.

- SB 1301 would repeal Health and Safety Code Sections 123400, which contains the title Therapeutic Abortion Act, and Sections 123405, 123407, 123410, 123415 as discussed above. SB 1301 would also repeal Section 123430 that requires the Department of Health Services to establish and maintain a system for reporting therapeutic abortions. (The latter Section is not in force in California. It is still unclear at this time whether the requirement in Section 123430 was enjoined by a trial court or simply never enforced.)

- SB 1301 would leave in place several provisions pertaining to abortion as found in the following Health and Safety Code Sections:
  -Section 123420 prohibiting employers from requiring employees to participate in the abortion procedure;
  -Section 123425 prohibiting coerced submission to abortion;
  -Section 123435 requiring treatment of an "infant" born alive during the course of abortion;
  -Section 123440 prohibiting use of any aborted produce of human conception other than fetal remains for scientific research;
  -Section 123445 requiring proper disposition of fetal remains; and
  -Section 123450 the minor consent law that has been held to be unconstitutional. See discussion above.

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- SB 1301 would amend Business and Professions Code Section 2253 to:
  1) Allow a health care provider, other than a licensed physician, who holds a valid, unrevoked and unsuspended license under the Business and Professions Code to assist in performing a surgical abortion, and
  2) Allow a health care provider, other than a licensed physician, who holds a valid, unrevoked and unsuspended license under the Business and Professions Code to perform or assist in performing nonsurgical abortions.

  This proposed amendment to the Business and Professions Code would effectively authorize non-physician providers to assist with abortion procedures in the clinical setting. In many communities in California this is already standard of practice. The amendments to the Business and Professions Code would shield non-physician providers from potential disciplinary action for unprofessional conduct when they perform abortion-related procedures while acting within their scope of practice. These amendments have the potential for expanding access to abortion services.

- SB 1301 would add Section 123460 to the Health and Safety Code to declare the fundamental right of privacy with respect to reproductive decisions and establish public policy to ensure that every individual has the fundamental right to choose or refuse birth control. This provision would preclude the courts and criminal justice system from forcing the use of contraceptive methods or medical or surgical sterilization for women and men. It is not clear whether this provision would also allow inmates to refuse chemical castration as a condition of parole, or to otherwise preclude the practice of chemical castration to deter sex offenders pursuant to California Penal Code 645. However, this form of punishment is not considered to be a birth control method although it may have that unintended consequence.

- There is some concern that Section 123460 would create a state-based entitlement to public benefits for contraceptive, sterilization, and abortion services. However, that entitlement currently exists through the state's public insurance programs. The Medi-Cal program pays for family planning services including vasectomies, condoms, and medical and surgical abortions. Furthermore, Committee to Defend Reproductive Rights v. Myers 29 Cal.3d 252, requires the state Medi-Cal program to pay for abortion services. In addition, the state Family Pact program pays for family planning services including emergency contraception, vasectomies, and condoms for low-income people. If any of these benefits were to be eliminated, the state could be exposed to risk of litigation to compel payment for these services. Because eligible beneficiaries are currently entitled to family planning services, it is not clear whether the litigation risk would significantly increase if this provision were to be enacted.

- Section 123460 would also establish a women's fundamental right to choose to bear a child or to choose and obtain an abortion as limited by the Reproductive Privacy Act. The right to bear a child or choose abortion currently exists in law. It is not clear at this time to what extent the state may be exposed to litigation to compel payment for infertility benefits if a "fundamental right" to choose to bear a child is established. No public health insurance program currently covers infertility treatment. Because of cuts in Committee to Defend

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Reproductive Rights v. Myers, it is arguable that the state is already exposed to litigation risk on this issue.

- SB 1301 adds several new definitions in statute pertaining to abortion and reproductive rights including:
  1) Defines abortion as a medical treatment. This was implied by Roe v. Wade at 410 U.S. 113, 165, which stated, "The decision [of the Court] vindicates the right of the physician to administer medical treatment."

  2) Defines "pregnancy" as "the human reproductive process, beginning with the implantation of an embryo."

  3) Defines "nonsurgical abortion" as that which includes termination of pregnancy through the use of pharmacological agents. This method of abortion was not specifically contemplated by Roe v. Wade. However, the medical science was not in evidence when the case was heard.

  4) Defines viability in terms of the reasonable likelihood of fetal survival outside the uterus without extraordinary medical measures as determined by the good faith medical judgment of a physician based on the particular facts of the case before that physician. This is in keeping with a line of case law following Roe v. Wade. See Colautti v. Franklin (1979) 439 U.S. 379. In Colautti, the Court reaffirmed its holding in Planned Parenthood of Central Missouri v. Danforth (1976) 428 U.S. 52, 64, that the "determination of whether a particular fetus is viable is, and must be, a matter for the judgment of the responsible attending physician." The Court in Colautti held: "Viability is reached when, in the judgment of the attending physician on the particular facts of the case before him, there is a reasonable likelihood of the fetus' sustained survival outside the womb, with or without artificial support." 439 U.S. at 388.

     The reference to "extraordinary medical measures" in SB 1301 is vague and not defined in the proposed statute. It would appear from the language of this provision that it is the author's intent for the valuation of extraordinary medical measures to be based upon the good faith judgment of a physician. Furthermore, lack of reference to the woman's attending physician would indicate that a physician not directly involved in the woman's case may make the determination of viability. This appears to be a subtle extension of the holding in Colautti. The practical application would be that a physician would be able to make a determination of viability based on information provided by a mid-level practitioner or another physician actually performing the abortion.

  5) Defines when an abortion is unauthorized. SB 1301 states that an abortion is unauthorized if performed by a person who is not a health care provider authorized under the Business and Professions Code or upon the good faith judgment of the physician it can be established that the fetus was viable and that the pregnancy posed no risk to life or health of the pregnant woman. This provision would essentially insulate physicians from disciplinary action for erroneously performing abortions after viability.

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- SB 1301 would affirm a woman's right to choose or obtain an abortion even after viability is established when the abortion is necessary to protect the life or health of the woman. Effectively this would authorize the performance of late-term abortion if the woman, in consultation with her physician, determines that continuing the pregnancy would pose a risk to her life or health. However, the language "to protect" has even more significant implications. This language would provide somewhat broader privacy rights than that articulated in Roe v. Wade. The Court in Roe permitted abortion after viability to "preserve" the life or health of the pregnant woman. 410 U.S. 133, 163-164. This language has been followed by the courts. Dicta in Colautti, however, indicates that the determination of whether or not to abort a fetus should be made in light of all attendant circumstances including the psychological and emotional, as well as physical well-being of the woman. 439 U.S. at 394. This would imply that the determination may be based on more than an anticipated medical outcome.

  The phrase "to protect" suggests that the health care provider take a more pro-active role regarding the physical and psycho-social health of a woman during pregnancy while the language "to preserve" implies that abortion after viability may only be considered when it is a matter of life or death for the mother or her health is substantially imperiled. SB 1301 would allow a physician, in consultation with his or her patient, to determine whether pregnancy puts a woman at risk even though she is physically healthy when other extrinsic circumstances exist, such as a history of intimate partner domestic violence. Therefore, the language establishes the a realm of privacy leaving the decision whether or not to abort between a woman and her physician, somewhat broadening the right to abortion by allowing the woman and her physician to consider physical as well as the psychosocial consequences of pregnancy in the decision to abort at any stage of the pregnancy.

- As a whole, the provisions of SB 1301 do not appear to reach too far beyond the essential holding in Roe v. Wade. The Roe Court held that the state has no legitimate interest in limiting abortion prior to viability of the fetus. The Court would leave it to the states to proscribe abortion after viability except when it is necessary to preserve the life or health of the mother. 410 U.S. 113, 163. In cases subsequent to Roe v. Wade, the courts have applied a balancing test to determine the state's interest in proscribing abortion against the women's right to abortion. It is likely that a court would uphold the state's right to expand the right to reproductive privacy.

LEGISLATIVE HISTORY

The Therapeutic Abortion Act became effective in 1967. Although there have been many legislative attempts to erode the right to choose in reproductive matters (see 2001-02 Legislative Session ACA 6 (Wyman), AB 2537 (LaSuer), SB 751(Haynes), SB 1291 (Haynes), AB 2248 (LaSuer)), there have been no attempts in the last ten years to specifically clarify the right to reproductive privacy in statute. On October 14, 2001, Governor Davis signed into law SB 780 (Ortiz), Chapter 893, Statutes of 2001, the California Freedom of Access to Clinic and Church Entrances Act/Reproductive Rights Law Enforcement Act, to protect providers and patients against anti-reproductive rights crimes. However, SB 780 did not clarify the right to reproductive privacy.

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PROGRAM BACKGROUND
The Office of Women's Health (OWH), California Department of Health Services, provides policy recommendations and research on women's health issues. The mission of OWH is to improve the health and well-being of California women and girls. The health and wellbeing of women of reproductive age is preserved if privacy in all matters related to reproductive health care is maintained. Furthermore, OWH supports efforts to improve access to reproductive health services.

OTHER STATES INFORMATION
According to data from the Alan Guttmacher Institute, nineteen states pay for abortions for poor women. These are Alaska, Arizona, California, Connecticut, Hawaii, Indiana, Illinois, Idaho, Massachusetts, Maryland, Minnesota, Montana, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, and West Virginia. Approximately 31 states enforce parental consent or parental notification laws. All states, except California and Alaska require reporting of abortion. No other states have enacted reproductive privacy laws that are as broad as SB 1301.

FISCAL IMPACT
SB 1301 is not expected to directly impact any programs administered by the Department. The exact fiscal impact to the state budget with regard to payment for abortion is unknown but is expected to be minimal. Codifying the ability of non-physician practitioners to perform non-surgical abortions, may increase statewide access to these services which could result in increased costs to the Medi-Cal program. Currently the state-only Medi-Cal program pays for abortion. Based on the 2000 data analysis, the estimated number of Medi-Cal funded induced abortions actually decreased in the previous ten years, and payments for Medi-Cal funded induced abortions since 1980 were reduced by 80 percent. It is unclear which variable's account for the decrease in payment and numbers of abortions performed. There is no credible evidence to suggest that the incidence of induced abortion will increase if SB 1301 is enacted. There is no data on the total number of induced abortions performed in California.

Establishing the right to chose or refuse birth control may require that the state and counties to reimburse for all FDA- approved contraceptive services, medical and surgical abortions, infertility treatments, and medical and surgical sterilization. Under current law, no public health insurance program currently covers infertility treatment. This bill could require, through court action, the state and/or state contractors, to cover expensive infertility treatments including artificial insemination and in vitro fertilization for low-income women. In addition, should the state chose not to cover specific contraceptive sterilization services currently covered under the Medi-Cal or Family PACT programs, this bill could lead to court action requiring the state to resume payment for these services. The exact fiscal ramifications are difficult to determine at this time.

ECONOMIC IMPACT
The state and/or local economic impact of SB 1301 is difficult to measure at this time because it is not possible to accurately determine the potential increase in demand for reproductive health services as a result of this bill.

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LEGAL IMPACT

SB 1301 would have significant legal impact in that it would define the parameters under which abortion may be performed in California. In addition, as discussed above, SB 1301 would somewhat extend the provision of Roe v. Wade and the subsequent line of cases. However, these cases have consistently upheld the states right to regulate abortion.

SUPPORT/OPPOSITION

Support: Sponsor: Planned Parenthood Affiliates of California(PPAC). [Also see attached list of supporters as supplied by the author's office.]

A number of pro-choice groups in California have formed the California Coalition for Reproductive Freedom ("Coalition"). The Coalition has come out publicly in support of SB 1301. The groups who are members of the Coalition include: PPAC, the ACLU, CARAL, the American College of Obstetricians and Gynecologists, the American Association of University Women-California, the California Medical Association, California Women Lawyers, California NOW, the California Nurses Association, Hadassah, the League of Women Voters of California, and the California Commission on the Status of Women, the American Academy of Pediatrics, and the California Family Health Council, Inc. Enactment of the Reproductive Privacy Act would have wide support from a variety of women's organizations, legal advocates, human rights organizations, and health care providers.

Opposition: California Catholic Conference; California ProLife Council; California Right to Life Committee; Campaign for California Families; Committee on Moral Concern

ARGUMENTS

PRO: Proponents argue that SB 1301 would affirmatively establish the fundamental right to reproductive privacy in California statute and would conform with the tenets of Roe v. Wade that prohibits state interference with a women's right to obtain an abortion "prior to the viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

CON: According to the opponents, this bill prematurely anticipates a reversal of the Supreme Court decision Roe v. Wade. The Committee on Moral Concerns (CMC) opposes the bill for several reasons. First, it asserts that the bill's declaration of an individual's "fundamental right of privacy" conflicts with a right to abortion, which invades the privacy of the aborted fetus. Second, the CMC disputes the bill's definition of pregnancy ("the human reproductive process, beginning with the implantation of embryo") as "politically convenient, but unfounded in scientific reality." The CMC further argues that the bill's apparent restrictions on abortion of a viable fetus are meaningless, since they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant woman."

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Assembly Appropriations Committee	8/17/22	17-4
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Assembly Judiciary Committee	6/14/22	9-2
Senate Floor	5/19/22	22-12
Senate Judiciary Committee	4/26/22	4-3

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To the Members of the California Senate:

I am returning SB 1301 without my signature.

SB 1301 would repeal the Therapeutic Abortion Act and enact the Reproductive Privacy Act. The Reproductive Privacy Act would provide that every individual possesses a fundamental right of privacy with respect to reproductive decisions, including the fundamental right to choose or refuse birth control, and to choose to bear a child or obtain an abortion. The bill would prohibit the state from denying or interfering with a women's fundamental right to choose abortion prior to the viability of the fetus or when necessary to protect her life or health.

The right to abortion currently exists in law. The state may not unreasonably interfere with a woman's right to choose abortion prior to viability. Enactment of the Reproductive Privacy Act would somewhat broaden the basic tenets of the threshold case, Roe v. Wade by minimizing restrictions on access to abortion services regardless of the stage of pregnancy. SB 1301 would alco establish rights to contraceptive and reproduction assistance services which could have a significant fiscal impact on the state.

Sincerely,

GRAY DAVIS

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: April 8, 2002
RECOMMENDATION: Defer to Health and Human Services Agency

BILL NUMBER: SB 1301
AUTHOR: S. Kuehl

ASSEMBLY: N/A
SENATE: 2/2/02

BILL SUMMARY

This bill would delete various statutory provisions regarding abortion and would enact in their place the Reproductive Privacy Act. The Act would provide, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the Act, or when necessary to protect her life or health, as defined. This bill would also specify the circumstances under which the performance of an abortion is deemed unauthorized. This bill also would permit an appropriately licensed person who is not a physician to assist in an abortion.

FISCAL SUMMARY

This bill would not have any fiscal impact to the DHS because it does not result in any additional workload or costs.

COMMENTS

This bill does not impose any costs or additional workload on the DHS. However, this bill presents important health policy issues and the Department of Finance therefore defers recommendation to the California Health and Human Services Agency.

	SO	(Fiscal Impact by Fiscal Year)						
Code/Department	LA	(Dollars in Thousands)						
Agency or Revenue	CC	PROP						Fund
Type	RV	98	FC	2002-2003	FC	2003-2004	FC	2004-2005	Code
4260/Hlth Svcs	SO	No		No/Minor Fiscal Impact					0001

Analyst/Principal (0341) P. Ketrip — Date

Program Budget Manager: Teresa G. Takagishi — Date 4-9-02

Department Director: Date

Program Director: Date

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SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 445-6614 Fax: (916) 327-4478	SB 1301

THIRD READING

Bill No: SB 1301
Author: Kuehl (D), et al
Amended: 4/8/02
Vote: 21

SENATE JUDICIARY COMMITTEE: 4-2, 4/9/02
AYES: Escutia, Kuehl, O'Connell, Sher
NOES: Ackerman, Haynes

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Reproductive Privacy Act

SOURCE: Planned Parenthood Affiliates of California, Inc.

DIGEST: This bill would delete various statutory provisions regarding abortion and would enact in their place the Reproductive Privacy Act. The act would provide, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the act.

ANALYSIS: Existing statutory law, the Therapeutic Abortion Act, authorizes a holder of a physician's and

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surgeon's certificate to perform an abortion only if it takes place in an accredited hospital, and is approved by a committee that finds that (1) there is substantial risk that continuance of the pregnancy would gravely impair the

CONTINUED

physical or mental health of the mother, and/or (2) the pregnancy resulted from rape or incest.

Existing law further provides that the committee shall not approve an abortion on the ground that the pregnancy resulted from rape or incest unless the district attorney, upon review of an affidavit from the applicant for the abortion, notifies the committee that probable cause exists to believe the pregnancy resulted from rape or incest (or if the district attorney fails to respond to the committee).

Existing law further provides that if the district attorney informs the committee that there is no probable cause to believe the pregnancy resulted from rape or incest, the applicant for the abortion may petition the superior court for a hearing. If the court determines by a preponderance of evidence that the pregnancy resulted from rape or incest, it shall issue an order to this effect, and the committee shall approve the abortion.

Existing case law has declared unconstitutional these sections' medical criteria and approval processes for obtaining an abortion. Planned Parenthood v. Ashcroft (1983) 462 U.S. 476; Akron v. Akron Center for Reproductive Health (1983) 462 U.S. 416; Roe v. Wade (1973) 410 U.S. 179; People v. Barksdale (1972) 8 Cal. 3d 320.

This bill would delete these sections and enact the Reproductive Privacy Act, which would provide that "it is the public policy of the state of California that (a) every individual has the fundamental right to choose or refuse birth control; (b) every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article;

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and (c) the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically permitted by this article."

Existing statutory law provides that the committee of medical staff referred to in Health and Safety Code Section 123405 must, in all instances, consist of not less than two licensed physicians and surgeons, and if the proposed

termination of pregnancy will occur after the 13th week of pregnancy, the committee must consist of at least three such licensed physicians and surgeons.

Existing law further provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy.

Existing case law has invalidated this section's requirement that an abortion must be approved by a medical committee. People v. Barksdale, supra, 8 Cal. 3d. at 328. Questions remain as to its validity regarding prohibition on abortions after the 20th week of pregnancy. 65 Ops. Atty. Gen. 261; Feminist Women's Health Center v. Philobosian (1984) 157 Cal. App. 3d 1076, 1084 n.3.

This bill would repeal Health and Safety Code Section 123410, and instead would provide that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."

This bill further would provide that the performance of an abortion is unauthorized if either of the following is true:

1. The person performing or assisting in the abortion is not a health care provider authorized to perform or

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assist in an abortion pursuant to Section 2253 of the Business and Professions Code.

2. The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.

This bill would define various terms, including (1) pregnancy, defined as "the human reproductive process, beginning with the implantation of an embryo," and (2) viability, defined as "the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained

survival outside the uterus without the application of extraordinary medical measures."

Existing law provides that the Department of Health Services shall establish a system for the reporting of abortions to determine their demographic effects, and to assess legal and medical standards pertaining to abortion practices, and shall report its findings to the Legislature every two years.

This bill would delete this provision.

Existing law provides that the performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct, unless done in compliance with the Therapeutic Abortion Act.

Existing law further provides that a person is subject to criminal penalties for the unlicensed practice of medicine if he or she performs or assists at a surgical abortion and does not have a valid physician's and surgeon's license, or a certificate obtained under another law authorizing him or her to perform or assist at a surgical abortion.

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This bill would delete the reference to the Therapeutic Abortion Act, and instead would provide that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

This bill further would provide that a person is subject to criminal penalties (1) if he or she assists at a surgical abortion and does not have a valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or (2) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.

This bill further would provide that for the purposes of this section, "nonsurgical abortion includes termination of

pregnancy through the use of pharmacologic agents."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 5/7/02)

Planned Parenthood Affiliates of California, Inc. (source)
Civil rights organizations: American Civil Liberties Union (ACLU); People for the American Way
Health care organizations: American Academy of Pediatrics; American College of Obstetricians and Gynecologists, District IX; California Family Health Council; California Medical Association; California Nurses Association; California Women's and Children's Health Coalition; Faculty of UCSF/SFGH Nurse Midwifery Program; Nurse-Midwives of San Francisco; Planned Parenthood

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chapters of Golden Gate, Los Angeles, Orange and San Bernardino Counties, Mar Monte, Pasadena, San Diego and Riverside Counties, Santa Barbara, Ventura and San Luis Obispo Counties, Shasta-Diablo, and Six Rivers; Santa Cruz Women's Health Center; T.H.E. Clinic, Inc., of Hawthorne; Women's Lifecycle Medical Group of Inglewood

Legal organizations: California Women Lawyers; California Women's Law Center; Lawyers' Club of San Diego; National Health Law Program

Political organizations: Democratic Women's Club of Pebble Beach; Democratic Women of Santa Barbara County; Orcutt Republican Club; West Hollywood Democratic Club

Pro-choice organizations: California Abortion Rights and Reproductive Rights Action League (CARAL); Medical Students for Choice, USC chapter; Physicians for Reproductive Choice and Health; Religious Coalition for Reproductive Choice; Reproductive Rights Coalition of Monterey County; Reproductive Rights Network of San Luis Obispo County Pro-Choice Coalition; Santa Cruz County; Ventura County Reproductive Rights Network; Voters for Choice

Women's organizations: American Association of University Women (AAUW), California, San Jose, and Santa Cruz chapters; California Commission on the Status of Women; Contra Costa Commission for Women; Hadassah; League of Women Voters of California; National Council of Jewish Women; National Latina Alliance; National Organization

for Women (NOW), California and Monterey Peninsula chapters; National Women's Political Caucus of California; Older Women's League (OWL); Santa Cruz County Women's Commission; Valley Women's Club; Women's Programs of Monterey Peninsula College

Other: JWCH Institute, Inc.

Opposition: (Verified 5/7/02)

California Catholic Conference
California ProLife Council

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California Right to Life Committee
Campaign for California Families
Committee on Moral Concerns
San Mateo Pro Life

ARGUMENTS IN SUPPORT: According to the author, many of the California statutes governing abortion have been rendered obsolete by federal and state Supreme Court decisions, but remain on the books because they have never been repealed or modified in accordance with case law. The end result "is a cryptic, often inconsistent abortion code that is laden with constitutional problems."

These outdated statutes also single out abortions for unnecessary regulation that doesn't apply to more complex procedures, and fail to address and accommodate advances in medical practice, such as early abortion methods like mifepristone (RU-486).

This bill would delete provisions found unconstitutional in state or federal courts, would eliminate barriers to the use of early, nonsurgical abortion methods, and would affirmatively protect the right to a safe and legal abortion in California. The author concludes, "we have an anti-choice President, an anti-choice Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade. Now is the time to protect our right to choose - right here in California. SB 1301 would keep abortion safe and legal in California even if the Supreme Court overturns Roe.

ARGUMENTS IN OPPOSITION: Opponents concede that the bill would bring California abortion law into conformance with

Roe v. Wade, but assert that the bill "prematurely" anticipates a reversal of that Supreme Court decision. Further, opponents note that "Roe v. Wade was never ratified by Congress. Neither should our state legislators circumvent the will of the people."

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The Committee on Moral Concerns (CMC) opposes the bill for several reasons. First, it asserts that the bill's declaration of an individual's fundamental right of privacy conflicts with a right to abortion, which invades the privacy of the aborted fetus. Second, the CMC disputes the bill's definition of pregnancy ("the human reproductive process, beginning with the implantation of an embryo") as "politically convenient, but ungrounded in scientific reality."

The CMC further argues that the bill's apparent restrictions on abortion of a viable fetus are meaningless, since they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant woman." The CMC asserts, "since there is no such thing as an absolutely risk-free childbirth, there is no such thing as an illegal abortion, as long as the abortionist is licensed."

RJG:sl 5/7/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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SB 1301 (KUEHL)
REPRODUCTIVE PRIVACY ACT.

Version: 4/8/02 Last Amended
Vote: Majority
Oppose

Vice-Chair: Tom Harman
Tax or Fee Increase: No

Recast statutory law, in keeping with federal and state supreme court decisions, to provide that the state shall not interfere with a woman's right to abortion, which includes diluting the parental role in child upbringing.

Policy Question

Should the statutory law be recast, in keeping with federal and state supreme court decisions, to provide that the state shall not deny or interfere with a woman's right to choose whether to bear a child or to abort, which includes diluting the role of parents in the upbringing of their minor children?

Summary

This bill: (1) Deletes and revises provisions of the California Therapeutic Abortion Act and renames it to be the Reproductive Privacy Act; (2) Declares legislative intent to protect the reproductivity privacy of all Californians; and (3) Provides that every individual possesses a fundamental right of privacy with respect to reproductive decisions, and the state shall not deny or interfere with a woman's right to choose to bear a child or to choose an abortion, except in extremely limited circumstances. More specifically this bill:

1. Deletes scattered sections pertaining to reproductive privacy issues and enacts a new California Reproductive Privacy Act, which provides that it is the public policy of the state of California that: **(1)** "every individual has the fundamental right to choose or refuse birth control;" **(2)** "every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article; and" **(3)** "the state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose and obtain an abortion, except as specifically permitted by this article."
2. Repeals Section 123410 of the Health and Safety Code and provides, in its place, that "the state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman."
3. Provides that the performance of an abortion is unauthorized if either of the following is true: **(1)** The person performing or assisting in the abortion is not a health care provider authorized to perform or assist in an abortion pursuant to Section 2253 of the Business and Professions Code; or **(2)** The abortion is performed on a viable fetus, and in the good faith medical judgment of the physician, the fetus was viable and continuation of the pregnancy posed no risk to the life or health of the pregnant woman.
4. Defines various terms, including **1)** pregnancy (defined as "the human reproductive process, beginning with the implantation of an embryo,") and **2)** viability (defined as "the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus's sustained survival outside the uterus without the application of extraordinary medical measures.")
5. Deletes the provision in existing law that provides that the Department of Health Services (DHS) shall have a system established for the reporting of abortions to determine their demographic effects, and to assess legal and medical standards pertaining to abortion practices, and report its findings to the Legislature every two years.
6. Deletes the reference to the "Therapeutic Abortion Act" and instead provides that failure to comply with the Reproductive Privacy Act in performing, procuring, aiding, or offering to procure an illegal abortion constitutes unprofessional conduct.

Senate Republican Floor Votes (22-12) 5/16/02
Ayes: Mc Pherson
Noes: All Other Republicans Except
Abs. / NV: Johannessen

Assembly Republican Judiciary Votes (8-2) 6/11/02
Ayes: None
Noes: Bates, Robert Pacheco
Abs. / NV: Harman, Rod Pacheco

Assembly Republican Health Votes (13-6) 6/25/02
Ayes: Richman
Noes: Robert Pacheco, Aanestad, Bates, Dickerson, Runner, Zettel
Abs. / NV: None

Assembly Republican Appropriations Votes (17-4) 8/7/02
Ayes: Daucher, Zettel
Noes: Bates, Ashburn, Robert Pacheco, Dickerson
Abs. / NV: Maldonado

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7. Provides that a person is subject to criminal penalties 1) if he or she assists at a surgical abortion and does not have a valid license or certificate obtained under a law authorizing him or her to perform the functions necessary to assist at a surgical abortion; or 2) if he or she performs or assists at a nonsurgical abortion without a valid license to practice as a physician or surgeon, or a valid license or certificate obtained under another law authorizing him or her to perform or assist in the functions necessary for a nonsurgical abortion.
8. Provides that for the purposes of this section, "nonsurgical abortion includes termination of pregnancy through the use of pharmacologic agents." **(I.e. authorizes non-physicians to perform non-surgical abortions – a nurse could prescribe RU-486).**

Support

American Academy of Pediatrics, CA District; American Association of University Women, California; American Association of University Women, San Jose Branch; American Association of University Women, Santa Cruz Branch; American Civil Liberties Union; American College of Obstetricians and Gynecologists, District IX; American Medical Women's Association; Board of Supervisors, County of Santa Cruz; California Abortion & Reproductive Rights Action League; California Church Impact; California Commission on the Status of Women; California Family Health Council; California Medical Association; California National Organization for Women; California Nurses Association; California Pro-Choice Republicans; California Women Lawyers; California Women's Law Center; California Women's and Children's Health Coalition; Democratic Women of Santa Barbara County; Democratic Women's Club, Pebble Beach; Hadassah; Lambda Letters Project; League of Women Voters of California; Medical Students for Choice, University of Southern California Chapter; National Abortion Federation (NAF); National Council of Jewish Women; National Health Law Program; National Latina Alliance; National Organization for Women, Monterey Peninsula Chapter; National Women's Political Caucus of California; Older Women's League; People for the American Way; Planned Parenthood Affiliates of California; Planned Parenthood Golden Gate; Planned Parenthood Los Angeles; Planned Parenthood Mar Monte; Planned Parenthood of Pasadena; Planned Parenthood of San Diego and Riverside Counties; Planned Parenthood of Santa Barbara, Ventura and Planned Parenthood Orange and San Bernardino Counties; Planned Parenthood: Shasta-Diablo; Reproductive Rights Coalition of Monterey County; Reproductive Rights Network of Santa Cruz County; San Louis Obispo Counties; Santa Cruz Women's Health Center; Six Rivers Planned Parenthood; Valley Women's Club; Voters for Choice; Women Lawyers Association of Los Angeles; Women's Programs, Monterey Peninsula College; and Workmen's Circle/Arbeter Ring (Southern California District).

Opposition

California Catholic Conference; California ProLife Council; Committee on Moral Concerns; Capitol Resource Institute; Campaign for California Families; and California Right to Life Committee.

Arguments In Support of the Bill

The author and proponents, concerned that *Roe v. Wade* (1973) could be modified or overturned, view this bill as: (1) Protecting Californians' fundamental right to choose a safe and legal abortion; (2) Providing greater access to early abortion methods, such as use of mifepristone or also referred to as RU-486, by eliminating barriers that currently impede the ability of licensed health care professionals to treat patients in the area of reproductive health; (3) Deleting language in current state law that has generally been found to be unconstitutional in state and federal courts; and (4) Treating abortion like other comparable medical procedures, and allowing healthcare providers , acting within their particular scopes of practice, to perform or assist in the performance of surgical and non-surgical abortions.

Arguments In Opposition to the Bill

1. By stating that as public policy that "every individual" has a fundamental right "to choose to bear a child or to choose and to obtain an abortion," this bill would further diminish the role of parents in the upbringing of their minor children.
2. Two key points asserted by the California Catholic Conference in opposition to this bill include: (1) "With this new statutory designation, you, and all members of the Legislature, could possibly preclude any local control reflective of community mores. For example, with this law a local hospital district would have no choice but to offer abortions at their community facilities, and local school districts could not refrain from offering abortion and contraceptive services at their schools, with or without a parent's permission. This law may even possibly repeal, by implication, the only two remaining pieces of the current law." (2) The Catholic Church consistently opposes abortion. Although we understand that abortion-on-demand is legal and practiced in California, we are directing our efforts toward advocating common sense restrictions on abortion practices that would mitigate its ill effects on women, children and society as a whole. Unfortunately, even a level of oversight and restriction that most people view as reasonable and necessary would be precluded by

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the provisions of this act. Under the law, there would be the possibility that someone other than a physician could perform a 'no-surgical' abortion. There would be no ability to limit abortion when a fetus is definitely viable, even in the ninth month! With this new law, what is moral when it comes to destroying life is to be decided solely by each individual."

3. The Campaign for California Families (CCF) strongly opposes the bill asserting that it "celebrates the killing of pre-born children as a 'fundamental right.' Abortion ends a pregnancy by destroying and removing the developing child." CCF further reports that "Approximately 93% of all induced abortions are done for elective, non-medical reasons such as these. Destroying innocent human life for convenience is wrong and should not be seen as a celebration of 'privacy' or anything else."
4. Capitol Resource Institute contends that "while men and women certainly have not only a right but a responsibility to exercise prudent birth control measures, babies have the 'fundamental right' to expect that once conceived they have the right to expect that their mothers will give them a chance to protect them and allow them to live."
5. The California Right to Life views this bill as resulting "in effectively installing a state version of the federal Roe vs. Wade Supreme Court decision with major expansion provisions."
6. The California Pro-Life Council expresses grave concern with "the repeal of the requirement that only physicians may do abortions. Clear language to assure that only physicians and surgeons are authorized to do abortions in California is a minimum the women of California should expect." The authorization of the use of RU-486 could lead to deaths and serious injuries depending upon how it is administered.
7. The Committee on Moral Concerns (Committee) holds that the apparent restrictions in the bill pertaining to abortion of a viable fetus are meaningless as they apply only where a physician determines that continuing the pregnancy would pose "no risk to the life or health of the pregnant women." The Committee concludes that "since there is no such thing as an absolutely risk-free childbirth, there is no such thing as an illegal abortion, as long as the abortionist is licensed."

As Adopted in Assembly Appropriations Committee August 7, 2002.

NO STATE COSTS

Policy Consultant: Mark Redmond 8/9/02
Fiscal Consultant: Seren Taylor 7/24/02

EXISTING LAW.

1. The Therapeutic Abortion Act provides in part that a requirement that an abortion may only be performed by the holder of a physician's and surgeon's certificate under specified conditions [Health and Safety Code Section 123400 et seq.].
2. The Therapeutic Abortion Act (Act) further provides in part that that prior approval be obtained for each abortion by a committee of medical staff, with specified membership, who must determine either that continuation of the pregnancy would impair the physical or mental health of the mother, or that the pregnancy resulted from rape or incest [Health and Safety Code Section 123400 *et seq.*]. The California Supreme Court invalidated part of the Act that required that an abortion must be approved by a medical committee in *People v. Barksaale* (1972) 8 Cal.3d 320.
3. The Therapeutic Abortion Act provides that in no event shall termination of a pregnancy be approved after the 20th week of pregnancy [Health and Safety Code Section 123410].
4. The procuring or aiding, abetting, attempting, agreeing, or offering to procure an unauthorized abortion constitutes unprofessional conduct of a licensee under the Medical Practices Act absent compliance with the Therapeutic Abortion Act [Business and Professions Code Section 2253].
5. A person is criminally liable, and subject to possible imprisonment, if he or she performs or assists in performing a surgical abortion if he or she does not have a valid, unrevoked, and unsuspended license to practice as a physician and surgeon, or other certificate that authorizes him or her to perform or assist in performing a surgical abortion [Business and Professions Code Section 2253(b)].
6. The United States Supreme Court in *Roe v. Wade* (1973) 410 U.S. at 153 held that a right of personal privacy exists under the federal Constitution, and that such right "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."
7. The California Supreme Court declared that an explicit right to privacy added to the California Constitution [in Article I] in 1972 provided state protection to procreative choice that is "at least as broad" as the federal protection set forth in *Roe v. Wade*.
8. The California Supreme Court, headed in 1997 by Chief Justice Ron George, invalidated a statute requiring a minor to obtain parental consent before obtaining an abortion in *American Academy of Pediatric v. Lungren* (1997) 16 Cal. 4th 307, 314.

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Please click here to return to the previous page.

Press Release

OFFICE OF THE GOVERNOR

L02: 095
FOR IMMEDIATE RELEASE
09/05/2002

GOVERNOR DAVIS PROTECTS A WOMAN'S RIGHT TO CHOOSE 09/05/2002

SAN FRANCISCO

Governor Gray Davis today signed four bills at City Hall Plaza today that protect a woman's right to choose, increase the awareness of emergency contraceptives, provide primary health care for women, and protect patient privacy.

"America's freedom includes the freedom to choose," Gov. Davis said. "Over the last four years, no state in America has more vigorously defended the freedom to choose than California."

Gov. Davis signed into law: SB 1301, by Senate Member Sheila Kuehl (D - Santa Monica); AB 1860, by Assemblymember Carole Migden (D (San Francisco); AB 2194, by Assemblymember Hannah-Beth Jackson (D - Santa Barbara) and AB 797, by Assemblymember Kevin Shelley (D - San Francisco).

SB 1301 (Kuehl), "The Reproductive Privacy Act," will ensure that California women will continue to have the right to an abortion, regardless of whether the U.S. Supreme Court continues to uphold Roe v. Wade. Additionally, this bill will allow women to easily obtain access to early non-surgical abortion methods (such as RU-486) by expanding the type of providers that may offer these services.

AB 1860 (Migden) requires medical professionals treating female sexual assault victims to provide emergency contraception (EC) upon request as part of their sexual assault medical examination.

More than 32,000 women in the U.S. become pregnant as a result of sexual assault each year; about half result in abortions. Unfortunately, most victims of sexual assault do not realize that emergency contraception is an option. With more information available about emergency contraception provided to victims during their medical exam, the number of abortions is expected to decline.

AB 2194 (Jackson) requires all medical residency programs in obstetrics and gynecology to comply with Accreditation Council for Graduate Medical Education (ACGME). The requirements emphasize a competency in primary health care for women, including training in the performance of abortion services. This bill reinforces the state's support for these program requirements.

AB 797 (Shelley) seeks to protect workers and patients against harassment and anti-choice Web sites, which publish the personal information of clinic doctors, workers and women seeking abortion services. One such anti-choice site, called the "Nuremberg Files," tracks violence towards patients and providers; 14 individuals listed on the site have been injured and seven have been murdered. In a recent state survey, 30 percent of providers reported in a recent reported they were targets of violence.

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David L. Wilkening, Staff Director

2002
DIGEST OF LEGISLATION

JANUARY 7, 2002 THROUGH SEPTEMBER 1, 2002

VOLUME I

NOVEMBER 2002

PREPARED BY
OFFICE OF SENATE FLOOR ANALYSES

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Legal Profession: The following legislation was enacted making improvements in the State Bar operations and legal profession: SB 1459 (Romero), SB 1897 (Kuehl), AB 1703 (Steinberg), and AB 2055 (Robert Pacheco).

Family Law: In the area of family law the following significant legislation was enacted: SB 97 (Kuehl) clarifies the law regarding interest charges on unpaid support obligations; SB 174 (Kuehl) provides for a genuine confidential mediation for custody and visitation disputes in four large counties; SB 1399 (Romero) creates a new misdemeanor offense for the willful failure to pay spousal support; SB 1512 (Scott) makes revisions in the adoption law to streamline procedures; SB 1658 (Soto) allows the defense of laches to be used in support cases; SB 1677 (Alpert) and AB 886 (Simitian) strengthens the law regarding surrogate parents and responsible adults who make educational decisions for children; SB 1704 (Ortiz) assures that when allegations of child abuse arise in the family courts that a thorough investigation is made; AB 746 (La Suer) permits out-of-state residents to finalize adoption of California children within the California court system; AB 2441 (Bates) enacts the Synclair-Cannon Child Abduction Prevention Act of 2002; AB 2934 (Wayne) makes changes to the Uniform Family Support Act to conform to the National Conference Commission on Uniform Laws recommendations; and AB 3033 (Assembly Judiciary Committee) specifies that domestic violence issues may be considered in an award of temporary support.

Civil Law: Significant civil law legislation enacted includes the following: SB 682 (Perata) and AB 496 (Koretz) repeals the existing Civil Code provisions granting limited statutory immunity to manufacturers and sellers of firearms and ammunition; SB 688 (Burton) provides new procedural protections to consumers by extending the statute of limitations in personal injury and wrongful death actions and makes procedural changes with regard to motions for summary judgment; SB 800 (Burton) specifies the rights and requirements of a homeowner to bring an action for construction defects; SB 994 (Morrow) extends the sunset date to the law protecting public skateboard parks from liability; SB 1301 (Kuehl) enacts the Reproductive Privacy Act which prevents the state from denying or interfering with a woman's right to choose an abortion; SB 1386 (Peace) and AB 700 (Simitian) seeks to help consumers protect their financial security and provides for civil recourse for violations; SB 1403 (Kuehl) makes provisions relative to renewal and termination of a hiring of residential real property applicable statewide and revises termination of a rental or lease agreement in a landlord-tenant relationship; SB 1575 (Sher) adds a registered domestic partner to the list of persons exempted from the prohibited transferee rule relative to wills and estates, and defines cohabitation; SB 1576 (Bowen) requires tenants (current and prospective) be noticed when their dwelling is to be demolished; SB 1878 (Poochigian) clarifies what actions constitute a contest for purposes of giving effect to or invalidity to a no contest clause in a will, trust, or other estate planning document; SB 1887 (McPherson) provides victims of crime with a tort remedy against criminals who commit a serious felony against them and later profit from that crime; SB 2032 (Monteith) prohibits any common interest development from limiting or prohibiting the display of an American flag, as specified; AB 227 (Dutra) extends the deadlines for participating in an amnesty program which provided relief from interest penalties for holders of unclaimed property; AB 1758 (Nakano) extends the statute of limitations until 2010 relative to recovery by Holocaust survivors or heirs of Holocaust artwork; AB 1928 (Jackson) creates a new civil cause for gender violence; AB 2041 (Vargas) broadens the current immunity for the use of an automatic external defibrillator; AB 2216 (Keeley) establishes intestate successor rights of domestic partners; AB 2321 (Hertzberg) clarifies and creates new procedures under which tort claims against judicial branch entities are presented; AB 2524 (Goldberg) requires that parties in special civil rights cases notify the Attorney General when the matter is on appeal; AB 2862 (Migden) makes various clarification revisions to the domestic partnership legislation of 2001 (AB 25); AB 2913 (Firebaugh) seeks to enable bracero workers or their heirs to bring an action out of claims they didn't receive savings funds due them for wages

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basis in the schools; AB 2709 (Wyland) requires that instruction in the social sciences include instruction on World War II and the American role in that war; AB 2781 (Oropeza) contains statutory implementation for education-related State Budget items; AB 2785 (Oropeza) contains statutory implementation for education-related State Budget items; AB 2800 (Chan) makes explicit the California Children and Families Commission to support school readiness activities; AB 2807 (Firebaugh) extends the sunset date for the Local Arts Education Partnership Program; AB 2811 (Migden) makes the Child Development Teacher and Supervisor Grant Program permanent and repeals the Child Development Teacher Loan Assumption Program; AB 2817 (Maddox) requires that instruction for sex education courses must advise pupils of the Safe Arms for Newborn Law; AB 2834 (Migden) seeks to improve school audits; AB 2950 (Strom-Martin) extends the sunset date for the University of California administered California Subject Matter Project; AB 3005 (Assembly Budget Committee) is an education-related trailer bill to the State Budget; AB 3008 (Assembly Budget Committee) is an education-related trailer bill to the State Budget; and AB 3045 (Assembly Higher Education Committee) conforms state law to federal law relative to the Golden State Scholarshare Grant Act.

Health and Public Social Services

One of the major pieces of legislation enacted into law was SB 253 (Ortiz), which enhances stem cell research in California for the purpose of developing medical therapies and finding cures for major diseases. Another significant piece of legislation enacted into law was SB 1230 (Alpert) which makes permanent the temporary ban on human cloning and extends the ban to human reproductive cloning. SB 1301 (Kuehl), enacted a new Reproductive Privacy Act providing that every individual possesses a fundamental right to privacy with respect to reproductive decisions and prohibits the state from interfering with a woman's right to choose an abortion prior to viability of the fetus.

Health Insurance and Coverage: In the area of health insurance coverage the following significant legislation was enacted: SB 59 (Escutia) requires a report regarding new uses of federal State Children's' Health Insurance Program funding for the provision of health coverage to children in vulnerable populations; SB 283 (Speier) expands the role of health plans in providing application assistance to Medi-Cal and Healthy Families Program applicants; SB 398 (Chesbro) provides health care service plans to meet with the State Department of Managed Health Care prior to filing for bankruptcy; SB 686 (Ortiz) revises the way the State Department of Managed Health Care calculates administrative assessments on health care service plans; SB 842 (Speier) clarifies the State Department of Managed Health Care's authority regarding regulation of which prescription drugs a health care service plan must provide if the plan provides coverage; SB 1092 (Sher) establishes the Consumer Participation Program with regard to health care service plans; SB 1278 (Speier) enhances the law relative to prescription discounts; SB 1411 (Speier) enacts the Maternity Paternity Act prohibiting health care service plans from imposing copayments or deductibles for hospital maternity services; SB 1531 (Speier) increases medical guarantees for individuals who would otherwise suffer from the loss of reduction in their medical coverage; SB 1633 (Soto) requires that Medi-Cal aged and disabled applicants be given a statement how they can transfer home ownership for less than fair market value without affecting Medi-Cal eligibility; SB 1913 (Senate Insurance Committee) requires the State Department of Insurance and the State Department of Managed Health Care to provide for a working group to ensure clarity for health care consumers about who enforces their patient's rights; SB 1914 (Senate Insurance Committee) provides a framework to guide the Legislature to proceed when state privacy laws are stronger or weaker than the privacy requirements of the federal Health Insurance Portability and Accessibility Act; AB 915 (Frommer) clarifies Medi-Cal reimbursement for hospital outpatient services and adult day health services; AB 1282 (Cardoza) seeks to establish an extended geographic accessibility standards for

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SB 1196 (Romero-D) Sovereign immunity: waiver

Expressly provides that the State of California consents to be sued in state or federal court for alleged violations of the following federal laws and associated regulations: the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Family and Medical Leave Act of 1993, and the Americans with Disabilities Act of 1990.

(Died in Assembly Appropriations Committee)

SB 1271 (Ackerman-R) Uniform Transfer on Death Security Registration Act

Adds cash equivalents to those assets which may be transferred by a registered owner of a security account upon his or her death to a designated beneficiary under the Uniform Transfer on Death Security Registration Act. Defines "cash equivalent" as an investment that is easily converted into cash, such as treasury bills, treasury notes, and money market funds. Includes, in the definition of a security account subject to the act, an investment management or custody account, so that a trust company or the trust department of a bank with trust powers may originate beneficiary designations for such accounts under the act.

Chapter 67, Statutes of 2002

SB 1301 (Kuehl-D) Reproductive Privacy Act

Deletes various statutory provisions regarding abortion and enacts, in their place, a new state Reproductive Privacy Act.

Chapter 385, Statutes of 2002

SB 1322 (Ackerman-R) Writs of possession: disposition of judgment property

Makes technical changes to the statutes regarding claim, exemption and delivery of property pre- and post-judgment.

Chapter 68, Statutes of 2002

SB 1325 (Kuehl-D) Personal jurisdiction: general appearance

Allows defendants in civil actions to make preliminary challenges to service or personal jurisdiction at the same time they answer or demure to a complaint. Conforms to federal law.

Chapter 69, Statutes of 2002

SB 1370 (Bowen-D) Servicing of indebtedness: transfer

Requires that any person transferring the service of indebtedness on specified loans to a different servicing agent shall provide to the new agent all existing insurance policy information that the person is responsible for maintaining, including, but not limited to, flood and hazard insurance policy information.

Chapter 70, Statutes of 2002

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Abortion

SB 251 (Haynes-R) Vehicles: "Choose Life" special interest license plates

Requires the State Department of Motor Vehicles to design and make available for issuance special interest license plates that bear a design containing the words "Choose Life" and requires funds collected to be expended for certain purposes related to preventing abortion and placing children for adoption.

(Died in Senate Transportation Committee)

Similar legislation is SB 1291 (Haynes-R), which died in Senate Transportation Committee.

SB 1301 (Kuehl-D) Reproductive Privacy Act

Deletes various statutory provisions regarding abortion and enacts in their place the Reproductive Privacy Act. The act provides, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the act.

Chapter 385, Statutes of 2002

SJR 23 (Speier-D) Medi-Cal and family planning services

Requests the President and the Congress of the United States to enact the Family Planning State Empowerment Act of 2001.

(Died in Assembly Health Committee)

AB 797 (Shelley-D) Public records: confidentiality

Expands the "Safe at Home" program that protects the addresses of domestic violence and stalking victims to reproductive health care services providers and their employees, volunteers, and patients. Also extends the sunset date of the "Safe at Home" program, which expires on January 1, 2005, to January 1, 2008.

Chapter 380, Statutes of 2002

AB 2537 (La Suer-R) Abortion: ultrasound

Requires an ultrasound to be performed on a woman seeking an abortion within 24 hours prior to the abortion procedure, and requires the ultrasound to be shown to the woman prior to commencing the abortion procedure.

(Died in Assembly Health Committee)

ACA 5 (Wyman-R) Abortion: parental notification

Prohibits, except in the case of an emergency, an abortion from being performed on an unemancipated minor until the physician has first notified one of her parents or her legal guardian pursuant to specified

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Assembly Committee on Judiciary

2001 - 2002 Bill Summary

A Comprehensive Breakdown of Legislation Considered by the Committee in 2001 - 2002

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ASSEMBLY COMMITTEE ON JUDICIARY
ELLEN M. CORBETT, CHAIR

January 2003

The counsel and staff of the Assembly Judiciary Committee have prepared this summary of the bills that were considered by the Committee in the 2001-2002 for your information. As in past years, the Committee was responsible for one of the largest and most complex bill loads in the Legislature, and the past session of the Legislature was productive on several policy fronts. Following is a brief summary containing some of the key areas where important progress was made. More specific descriptions of the bills can be found in this annual report.

Personal Privacy. *The Committee addressed the ever-increasing threats to the privacy rights of Californians, considering several bills to increase consumers' ability to protect their private financial information. In addition, the Committee passed legislation to protect consumers from the crime of identity theft, providing new safeguards and improved procedures for repairing the damage caused by this crime.*

Civil Rights and Discrimination. *The Committee continued its efforts to protect the civil rights of Californians and to eliminate illegal discrimination. The Committee passed legislation conferring important new rights on domestic partners. It affirmed the state's commitment to continued enforcement of the Americans with Disabilities Act (ADA) and passed legislation to ensure that the state itself can be held to the standards of the ADA. The Committee also affirmed California's commitment to upholding the reproductive rights of women.*

Secret Settlements. *Last session, the Committee took on the issue of secrecy agreements in litigation that threaten public safety by keeping critical information on product defects or other threats out of the hands of the public. Ensuring that critical information reaches the public in order to prevent further harm, without unduly impinging on a company's right to keep competitively sensitive information confidential, was one of the most difficult challenges the Committee addressed.*

Construction Defects. *The Committee approved landmark measures to provide redress for homeowners harmed by construction defects and toxic mold. It also approved important reforms to allow renters who face eviction more reasonable time to find a new place to live.*

Family Law and Domestic Violence. *Last session the Committee considered a measure to protect divorcing spouses from losing spousal support under the provisions of an unfair premarital agreement, and a measure to protect victims of domestic violence from having to pay spousal support to their abusers. The Committee also passed a measure*

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giving more complete information to courts considering whether to issue domestic violence protective orders. Further the Committee passed a bill which assisted families who are adopting children by making adoptions final more quickly.

Attorneys. *The Committee took up measures last session to require that the State Bar create a diversion program for the treatment of attorneys impaired due to mental illness or alcohol or drug abuse. The committee also sought to hold attorneys who contract with the State to the ethical standards of the profession by asking that such attorneys participate in providing pro bono legal services for those who cannot afford legal help.*

The following annual report contains helpful statistical data regarding the disposition of the bills assigned to the Committee in 2001 and 2002 as well as summaries of these bills. I hope you'll find this information useful.

Sincerely,



Ellen M. Corbett
Chair

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SB 168 (Bowen) Personal information: identity theft; social security numbers. 77
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AB 1015 (Wright) Employment discrimination and retaliation. 80
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AB 1286 (Rod Pacheco) Conservatorships: bonds. 83
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AB 3036 (Corbett) Guardianships. 84
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AB 255 (Zettel) Elder abuse. 84
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AB 232 (John Campbell) Compensation of personal representatives. 85
AB 322 (Bill Campbell) Cemeteries: disposition of family plots. 85
AB 873 (Harman) Non-probate transfers: dissolution of marriage. 85
AB 1784 (Harman) Construction of instruments. 85
SB 668 (Poochigian) Estates and trusts: allocation of debts. 85
SB 669 (Poochigian) Probate: property claims. 86

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information be deemed admissible as evidence in any such proceeding "for any reason." The furnishing of confidential information under the bill shall not expose any person, agency or entity furnishing the information to liability, nor shall it be considered a waiver of privilege or a violation of a confidential relationship. Status: Chapter 444, 2001.

SB 773 (Speier) Privacy: financial institutions; confidential consumer information. When this bill was heard by the Committee, it required a financial institution, before disclosing confidential consumer information to an affiliate, to give a consumer an opportunity to direct that his or her confidential consumer information not be disclosed (an "opt-out" approach). The bill also required a financial institution to obtain the consent of a consumer before the financial institution is permitted to disclose or share the consumer's "confidential consumer information" with any nonaffiliated third party (an "opt-in" approach). The bill was subsequently amended to delete the opt-out restriction on affiliate-sharing. The bill was also amended to permit a financial institution to share information with another financial institution when the two institutions have entered into a written agreement to jointly offer a financial product or financial service, provided that specified requirements are met. Status: Failed; SenConcurrence.

SB 979 (Machado) Confidentiality of medical information. Existing law prohibits providers of health care, health care service plans, and contractors from releasing medical information to persons authorized by law to receive that information if the information specifically relates to the patient's participation in outpatient treatment with a psychotherapist, unless the requester of the information submits a specified written request for the information to the patient and to the provider of health care, health care service plan, or contractor. For purposes of that provision, a "psychotherapist" is defined as a person who comes within the definition of a psychotherapist under a specified provision of the Evidence Code and who is a provider of health care, as defined. This bill revises and further limits the circumstances under which a provider of health care, health care service plan, or contractor may release medical information that relates to the patient's participation in outpatient treatment with a psychotherapist unless specifically authorized by the patient or the patient's representative for each release. Status: Dead; AsmHealth.

SB 1301 (Kuehl) Reproductive Privacy Act. This bill deletes various statutory provisions regarding abortion and enacts in their place the Reproductive Privacy Act. The new Act provides, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the act. Status: Chapter 385, 2002.

SB 1386 (Peace) Personal information: privacy. This bill, in conjunction with AB 700 (Simitian) requires an agency, person, or business that conducts business in California and owns or licenses computerized data containing personal information to disclose any security breach to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The bill

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DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: April 8, 2002
RECOMMENDATION: Defer to Health and Human Services Agency

BILL NUMBER: SB 1301
AUTHOR: S. Kuehl

ASSEMBLY: N/A
SENATE: 22/12

BILL SUMMARY

This bill would delete various statutory provisions regarding abortion and would enact in their place the Reproductive Privacy Act. The Act would provide, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the Act, or when necessary to protect her life or health, as defined. This bill would also specify the circumstances under which the performance of an abortion is deemed unauthorized. This bill also would permit an appropriately licensed person who is not a physician to assist in an abortion.

FISCAL SUMMARY

The bill would not have any fiscal impact to the DHS because it does not result in any additional workload or costs.

COMMENTS

This bill does not impose any costs or additional workload on the DHS. However, this bill presents important health policy issues and the Department of Finance therefore defers recommendation to the California Health and Human Services Agency.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) 2002-2003	FC	2003-2004	FC	2004-2005	Fund Code
4260/Hlth Svcs	SO	No		No/Minor Fiscal Impact					0001

Analyst/Principal (0541) P. Kemp — Date

for Program Budget Manager Terrie G. Tatosian — Date 8-14-02

Department Director Original signed by B. Timothy Gage — Date AUG 18 2002

ENROLLED BILL REPORT — Form DF-43 (Rev 03/95)

HLTH :SB1301-5531 8/14/2002 11:17 AM

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 8, 2002
POSITION: Neutral

BILL NUMBER: SB 1301
AUTHOR: S. Kuehl

BILL SUMMARY

This bill would delete various statutory provisions regarding abortion and would enact in their place the Reproductive Privacy Act. The Act would provide, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the Act, or when necessary to protect her life or health, as defined. This bill would also specify the circumstances under which the performance of an abortion is deemed unauthorized. This bill also would permit an appropriately licensed person who is not a physician to assist in an abortion.

FISCAL SUMMARY

The bill would not have any fiscal impact to the DHS because it does not result in any additional workload or costs.

COMMENTS

The Department of Finance is neutral on this bill because it does not impose any costs or additional workload on the DHS. However, this bill presents important health policy issues and should therefore be carefully considered.

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2001-2002	FC	2002-2003	FC	2003-2004	Fund Code
4260/Hlth Svcs	SO	No		---------- No/Minor Fiscal Impact ----------					0001

Analyst/Principal (0541) P. Kemp — Date: SWK 6-10-02, 6-10-02

Program Budget Manager Terrie G. Tatosian — Date: 6/10/02

Department Deputy Director: Original signed by Robert D. Miyashiro — Date: JUN 11 2002

Governor's Office: By: RF — Date: 6/14/02 — Position Noted ____ Position Approved X Position Disapproved ____

BILL ANALYSIS — Form DF-43 (Rev 03/95 Buff)

HLTH :SB1301-4285 6/10/2002 10:08 AM

A-1066 DF - 2

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Reavey, Thomas

From: Gates, Kimberly (CHHS)
Sent: Monday, June 10, 2002 9:44 AM
To: Reavey, Thomas
Cc: Walz, Jennifer (CHHS)
Subject: RE: SB 1301

Thom,

As you originally expected this bill is being carefully vetted and isn't finalized yet. This is one that CHHS will be working closely w/ the GO on. Once it is available - we will be sure to get you a copy. Not sure of timeframe.

--Kimberly

-----Original Message-----
From: Reavey, Thomas
Sent: Friday, June 07, 2002 2:00 PM
To: Gates, Kimberly (CHHS)
Subject: FW: SB 1301

Any word on this one yet? Thanks

-----Original Message-----
From: Reavey, Thomas
Sent: Thursday, June 06, 2002 9:05 AM
To: Gates, Kimberly (CHHS)
Subject: SB 1301

I know we spoke about this one back in April. Has agency adopted a position on it yet?

Thanks

Tom Reavey
Finance Budget Analyst
California Department of Finance
916-445-6423, Fax 916-327-0218

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DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 8, 2002
POSITION: Neutral fiscally; defer to Health and Human Services Agency

BILL NUMBER: SB 1301
AUTHOR: S. Kuehl

BILL SUMMARY

This bill would delete various statutory provisions regarding abortion and would enact in their place the Reproductive Privacy Act. The Act would provide, among other things, that (1) every individual possesses a fundamental right of privacy with respect to reproductive decisions; and (2) the state shall not deny or interfere with a woman's right to choose an abortion prior to viability of the fetus, as defined in the Act, or when necessary to protect her life or health, as defined. This bill would also specify the circumstances under which the performance of an abortion is deemed unauthorized. This bill also would permit an appropriately licensed person who is not a physician to assist in an abortion.

FISCAL SUMMARY

The bill would not have any fiscal impact to the DHS because it does not result in any additional workload or costs.

COMMENTS

This bill does not impose any costs or additional workload on the DHS. However, this bill presents important health policy issues. Finance therefore defers recommendation to the California Health and Human Services Agency for policy consideration.

Code/Department Agency or Revenue Type	SOLACORV	(Fiscal Impact by Fiscal Year) (Dollars in Thousands) PROP 98	FC	2001-2002	FC	2002-2003	FC	2003-2004	Fund Code
4260/Hlth Svcs	SO	No		No/Minor Fiscal Impact					0001

Analyst/Principal (0541) P. Kemp — Date 5-2-02
Program Budget Manager Terrie G. Tatosian — Date

Department Deputy Director — Date

Governor's Office: By: Date: Position Noted / Position Approved / Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/9[illegible] Draft)

HLTH :SB1301-4285 5/1/2002 10:11 AM

A-1068 DF - 4

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Visalia Times-Delta · Tue, Jan 22, 2002

Abortion debate echoes at Capitol

Lawmaker moves to ease restrictions on abortion pill 29 years after Roe

By Jake Henshaw
Times-Delta Sacramento Bureau

SACRAMENTO — As the nation today marks the 29th anniversary of the Supreme Court's decision on abortion, California legislators are preparing to debate a new bill that would allow nurses to dispense the abortion pill — RU-486.

Right now only physicians can perform a surgical or nonsurgical abortion, including prescribing medication such as RU-486, which induces miscarriages.

Senate Bill 1301 by Sen. Sheila Kuehl, D-Santa Monica, would repeal a 35-year old state law known as the Therapeutic Abortion Act and replace it with the Reproductive Privacy Act, ending the exceptional status of abortion in medical practice.

"The act provides greater access to the full panoply of legally available reproductive health services for women," Kuehl said.

But Karen Holgate of the Capitol Resource Institute, which opposes abortion, said the bill just makes it easier for anyone to get an abortion.

"It's a blank check to get rid of unwanted children," charged Holgate, the institute's policy director.

While Kuehl portrayed her bill "as simply reaffirming Roe v. Wade as we know it now," Holgate said it would signal a major development in public policy on abortion.

"This is a huge move forward with doing away with any responsibility for getting pregnant, [with] any responsibility to carry a child to term and thinking about the child and their existence," Holgate said.

She said SB 1301 will be a key target of pro-life forces when they visit the Capitol Wednesday for their annual lobbying day to build support for legislative action that restricts abortions.

They will follow pro-choice forces who will be at the Capitol today, the anniversary of Roe v. Wade, the 1973 U.S. Supreme Court decision that allows abortions in the early stages of pregnancy.

SB 1301 targets the 1967 state Therapeutic Abortion Act, which originally allowed a panel of doctors to approve abortions only in the first 20 weeks of pregnancy to protect the health of the mother or in cases of rape or incest.

The state Supreme Court later threw out most of that act, but retained a provision requiring only licensed physicians to perform an abortion.

As a result, nurses can't assist a doctor in performing a surgical abortion or participate in a nonsurgical abortion, such as use of RU-486, even though a nurse can provide other medications, Kuehl said.

Kuehl wants to end this legal distinction between abortion-related medical care and other medical practices.

The upshot would be to allow nurses to dispense RU-486 under a doctor's supervision. The doctor wouldn't have to be on the premises of the medical facility but must be available by phone, according to Kuehl's staff.

"So we're not singling [RU-486] out" to be treated differently, Kuehl said. "We're saying it can't be singled out."

Mifepristone, or RU-486, is medication that can be used in the first seven weeks of pregnancy to induce the womb to expel the embryo, resulting in a miscarriage. Its use in the United States was approved by the U.S. food and Drug Administration in 2000 after years of use in Europe.

And SB 1301 would place into statute a woman's legal right to chose an abortion as established in Roe v. Wade. Kuehl said it's time to spell out this right in statute.

"Everybody says you have this right, but you can't exactly point to where it is," Kuehl said.

Holgate said her organization is concerned that SB 1301 would increase what she said are 110,000 abortion performed annually in the state.

"It is a deal Planned Parenthood cooked up with Sen. Kuehl to make more money by having fewer doctors on site," Holgate said.

But she said that given the control of the Legislature by Democrats, who generally are pro-choice, SB 1301 is likely to pass.

"But we'll fight against it," she promised.

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Tulare Advance-Register · Tue, Jan 22, 2002

Bill would give nurses abortion-pill power

Pro-life forces vow to fight state Senate effort to bring rules in line with other medical practices.

By Jake Henshaw
Gannett Sacramento Bureau

SACRAMENTO — As the nation this week marks the 29th anniversary of the Supreme Court decision on abortion known as Roe v. Wade, California legislators are preparing to debate a new bill that would allow nurses to dispense the abortion pill RU-486.

Right now, only physicians can perform a surgical or nonsurgical abortion, including prescribing medication such as RU-486 that induces abortion.

Senate Bill 1301 by Sen. Sheila Kuehl, D-Santa Monica, would make this change in current law by recasting state law related to abortion.

The proposed legislation would repeal a 35-year old state law known as the Therapeutic Abortion Act and replace it with the Reproductive Privacy Act ending the exceptional status of abortion in medical practice.

"The act provides greater access to the full panoply of legally available reproductive health services for women," Kuehl said.

But Karen Holgate of the Capitol Resource Institute, which opposes abortion, said the bill just makes it easier for anyone to get an abortion.

"It's a blank check to get rid of unwanted children," charged Holgate, the institute's policy director.

While Kuehl portrayed her bill "as simply reaffirming Roe v. Wade as we know it now," Holgate said it would signal a major development in public policy on abortion.

"This is a huge move forward with doing away with any responsibility for getting pregnant, [with] any responsibility to carry a child to term and thinking about the child and their existence," Holgate said.

She said SB 1301 will be a key target of pro-life forces when they visit the Capitol on Wednesday for their annual lobbying day to build support for legislative action that restricts abortions.

They will follow pro-choice forces who will be at the Capitol on Tuesday, the anniversary of Roe v. Wade, the 1973 U.S. Supreme Court decision that allows abortions in the early stages of pregnancy.

SB 1301 targets the 1967 state Therapeutic Abortion Act, which originally allowed a panel of doctors to approve abortions only in the first 20 weeks of pregnancy to protect the health of the mother or in cases of rape or incest.

The state Supreme Court later threw out most of that act, but retained a provision requiring only licensed physicians to perform an abortion.

As a result, nurses can't assist a doctor in performing a surgical abortion or participate in a nonsurgical abortion, such as use of RU-486, even though nurses can provide other medications, Kuehl said.

Kuehl wants to end this legal distinction between abortion-related medical care and other medical practice, so that it can be handled under the rules and procedures in place for other types of care.

The upshot would be to allow nurses to dispense RU-486 under a doctor's supervision. The doctor wouldn't have to be on the premises of the medical facility but must be available by phone, according to Kuehl's staff.

"So we're not singling it [RU-486] out" to be treated differently, Kuehl said. "We're saying it can't be singled out."

Mifepristone, or RU-486, is medication that can be used in the first seven weeks of pregnancy to induce the womb to expel the embryo, resulting in a miscarriage. Its use in the United States was approved by the U.S. Food and Drug Administration in 2000, after years of use in Europe.

Finally, SB 1301 would place into statute a woman's legal right to chose an abortion as established in Roe v. Wade. Kuehl said it's time to move beyond court decisions and spell out this right in statute.

"Everybody says you have this right, but you can't exactly point to where it is," Kuehl said.

Holgate said her organization is concerned that SB 1301 would increase what she said are 110,000 abortion performed annually in the state now, with at least part of the increased cost paid by taxpayers.

She also questioned the effect on women's health of allowing abortions to occur without even requiring doctors to be present physically.

"It is a deal Planned Parenthood cooked up with Sen. Kuehl to make more money by having fewer doctors on site," Holgate said.

She added, however, that given the control of the Legislature by Democrats, who generally are pro-choice, SB 1301 is likely to pass.

"But we'll fight against it," she promised.

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The Desert Sun · Tue, Jan 22, 2002

Bill would ease abortion-pill access

Critic calls measure 'blank check to get rid of unwanted children'

By Jake Henshaw
DESERT SUN SACRAMENTO BUREAU

SACRAMENTO — As the nation this week marks the 29th anniversary of the Supreme Court decision on abortion known as Roe v. Wade, California legislators are preparing to debate a new bill that would allow nurses to dispense RU-486, the abortion pill.

Currently only physicians can perform a surgical or non-surgical abortion, including prescribing medications such as RU-486, which induces abortion.

Senate Bill 1301 by Sen. Sheila Kuehl, D-Santa Monica, would make this change in current law by recasting state law related to abortion.

The proposed legislation would repeal a 35-year-old state law known as the Therapeutic Abortion Act and replace it with the Reproductive Privacy Act, ending the exceptional status of abortion in medical practice.

"The act provides greater access to the full panoply of legally available reproductive-health services for women," Kuehl said.

NOT SO SIMPLE: But Karen Holgate of the Capitol Resource Institute, which opposes abortion, said the bill just makes it easier for anyone to get an abortion.

"It's a blank check to get rid of unwanted children," charged Holgate, the institute's policy director.

While Kuehl portrayed her bill "as simply reaffirming Roe v. Wade as we know it now," Holgate said it would signal a major development in public policy on abortion.

"This is a huge move forward with doing away with any responsibility for getting pregnant, (with) any responsibility to carry a child to term and thinking about the child and their existence," Holgate said.

She said SB 1301 will be a key target of anti-abortion forces when they visit the Capitol Wednesday for their annual lobbying day to build support for legislative action that restricts abortions.

They will follow abortion-rights forces who will be at the Capitol today, the anniversary of Roe v. Wade, the 1973 U.S. Supreme Court decision that allows abortions in the early stages of pregnancy.

SB 1301 targets the 1967 state Therapeutic Abortion Act, which originally allowed a panel of doctors to approve abortions only in the first 20 weeks of pregnancy to protect the health of the mother or in cases of rape or incest.

The state Supreme Court later threw out most of that act, but retained a provision requiring only licensed physicians to perform an abortion.

As a result, nurses can't assist a doctor in performing a surgical abortion or participate in a non-surgical abortion, such as one using RU-486, even though nurses can provide other medications, Kuehl said.

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The upshot would be to allow nurses to dispense RU-486 under a doctor's supervision. The doctor wouldn't have to be on the premises of the medical facility but must be available by phone, according to Kuehl's staff.

"So we're not singling it (RU-486) out" to be treated differently, Kuehl said. "We're saying it can't be singled out."

THE DRUG: Mifepristone, or RU-486, can be used in the first seven weeks of pregnancy to induce the womb to expel the embryo, resulting in a miscarriage. Its use in the United States was approved by the U.S. Food and Drug Administration in 2000, after years of use in Europe.

Finally, SB 1301 would place into statute a woman's legal right to chose an abortion as established in Roe v. Wade. Kuehl said it's time to move beyond court decisions and spell out this right in a statute.

"Everybody says you have this right, but you can't exactly point to where it is," Kuehl said.

Holgate said her organization is concerned that SB 1301 would increase what she said are 110,000 abortions performed each year in California, with at least part of the increased cost paid by taxpayers.

She also questioned the effect on women's health of allowing abortions to occur without requiring doctors to be present physically.

"It is a deal Planned Parenthood cooked up with Sen. Kuehl to make more money by having fewer doctors on site," Holgate said.

She added, however, that given the control of the Legislature by Democrats, who generally support abortion rights, SB 1301 is likely to pass.

"But we'll fight against it," she promised.

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The Los Angeles Times · Fri, May 17, 2002

Senate OKs Letting Nurses Prescribe RU-486

Legislation: Intense debate precedes vote on the abortion pill measure. The bill's chances of passage in the Assembly are uncertain.

By CARL INGRAM
TIMES STAFF WRITER

SACRAMENTO—The state Senate voted Thursday to allow certain nurses and other nonphysician health-care providers to legally prescribe the controversial abortion pill RU-486, dismissing opponents' warnings that it would endanger the lives of California women.

In an intense debate, supporters of SB 1301 insisted it would apply to state licensed health professionals who already are authorized to write prescriptions under a doctor's supervision except for abortion purposes.

"If you can do it for other procedures, you can do it for this," argued Sen. Sheila Kuehl (D-Santa Monica), the bill's author.

On a party-line vote, 22 Democrats voted for it and 11 Republicans voted no.

The bill faces an uncertain future in the Assembly. Gov. Gray Davis has taken no position on it, a spokesman said.

In a separate action, the Senate approved and forwarded to the Assembly a bill that would suspend the statute of limitations in certain cases and allow victims of child sexual abuse to sue the Roman Catholic Church or other organizations long after the assault occurred.

The measure by Senate leader John L. Burton, a Democrat and Roman Catholic from San Francisco, said the lawsuits could be brought against the church or other responsible third-party defendants if they knew or should have known of child sex abuse but did not take reasonable steps to stop it.

Burton said he introduced the bill (SB 1779) as the result of recently publicized cases in which church officials knew of the sexual abuse of boys and girls but allegedly covered it up and reassigned the offending priests to duties where they continued to have contact with children.

No one opposed the bill, including major employer organizations and the statewide California Catholic Conference, which represents every Roman Catholic diocese in California.

Edward E. Dolejsi, executive director of the conference, said he doubted the church would take a position on the legislation. He said it was uncertain it would be beneficial to "get involved in that particular issue."

The legislation would suspend the statute of limitations in cases in which an adult victim wanted to sue a third-party defendant, such as the church, but was prohibited from doing so because time had run out.

Currently, adults who reach age 26 cannot file. The bill would give victims who allege they had been damaged by childhood abuse three extra years in which to sue.

In cases filed against a third-party defendant but dismissed because the statute had run out, a one-year extension would be granted so the case could be refiled.

Davis also has no position on this bill, his spokesman said.

While the California Catholic Conference chose to watch the Burton bill from the sidelines, it lobbied hard against passage of the bill to allow nonphysicians to prescribe abortion pills.

"It's irresponsible. . . . It puts women's health in jeopardy for the sake of convenience and expedience. It goes way beyond the pale of what most people would consider the responsible practice of abortion in California," Dolejsi said.

> *'It's irresponsible. . . . It puts women's health in jeopardy for the sake of convenience and expedience.'*
>
> **Edward E. Dolejsi,** head of California Catholic Conference

Sen. Ray Haynes (R-Riverside), the Legislature's leading abortion opponent, tried to amend out the prescription provisions, but his effort was thwarted by majority Democrats.

"The only reason for putting this bill in is to allow non-doctors to perform abortions," Haynes said. "We are going to be subjecting women all over this state to serious injury and possibly death."

He claimed that in the last few weeks, there had been four serious injuries and two deaths to women who had taken RU-486.

Kuehl said there was no evidence that those cases involved the drug.

Under the California Therapeutic Abortion Act, signed by Gov. Ronald Reagan in the late 1960s, only physicians operating in approved hospitals can perform an abortion.

It is against the law for other licensed professionals, such as nurse practitioners, physician assistants and midwives, to perform an abortion or assist in one, Kuehl said. She said that prescribing the RU-486 pills is a noninvasive act that comes nowhere near the performing of a surgical abortion.

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A-1072

The Napa Valley Register · Sun, May 19, 2002

Senate approves bill to let nurses prescribe RU-486

From the Associated Press

SACRAMENTO — Certain nurses and other nonphysician health care providers would be legally able to prescribe the controversial abortion pill RU-486 under a bill approved by the state Senate.

Dismissing opponents' warnings that the pill would endanger the lives of California women, the Senate voted along party lines Thursday 22-11, with Republicans in the minority.

SB1301, written by Sen. Sheila Kuehl, D-Santa Monica, faces an uncertain future in the Assembly, and a spokesman for Gov. Gray Davis said he has not taken a position yet.

Supporters of the bill insisted it would apply to state licensed health professionals who already are authorized to write prescriptions under a doctor's supervision except for abortion purposes.

"If you can do it for other procedures, you can do it for this," said Kuehl.

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION FIVE

Case No. B355195

MAX DAVID BORENSTEIN,

Respondent,

v.

SOFIYA ALEXANDRA GOLDSHTEYN,

Appellant.

Appeal from the Superior Court of California,
County of Los Angeles - Case No. 22STFL08826

Hon. Scott J. Nord, Judge

APPELLANT'S APPENDIX
VOLUME 9 OF 11

Pages 1733-1991

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DECLARATION OF ANNA MARIA BERECZKY-ANDERSON

I, Anna Maria Bereczky-Anderson, declare:

I am an attorney licensed to practice in California, State Bar No. 227794, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the enactment of Assembly Bill 2223 of 2022. Assembly Bill 2223 was approved by the Legislature and was enacted as Chapter 629 of the Statutes of 2022.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on Assembly Bill 2223 of 2022. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

ASSEMBLY BILL 2223 OF 2022:

1. All versions of Assembly Bill 2223 (Wicks-2022);
2. Procedural history of Assembly Bill 2223 from the November 30, 2022, *Assembly Weekly History*;
3. Analysis of Assembly Bill 2223 prepared for the Assembly Committee on Judiciary;
4. Material from the legislative bill file of the Assembly Committee on Judiciary on Assembly Bill 2223;
5. Analysis of Assembly Bill 2223 prepared for the Assembly Committee on Health;
6. Material from the legislative bill file of the Assembly Committee on Health on Assembly Bill 2223;

7. Analysis of Assembly Bill 2223 prepared for the Assembly Committee on Appropriations;
8. Material from the legislative bill file of the Assembly Committee on Appropriations on Assembly Bill 2223;
9. Third Reading analysis of Assembly Bill 2223 prepared by the Assembly Committee on Judiciary;
10. Analysis of Assembly Bill 2223 prepared for the Senate Committee on Judiciary;
11. Material from the legislative bill file of the Senate Committee on Judiciary on Assembly Bill 2223 – *currently unavailable*;
12. Analysis of Assembly Bill 2223 prepared for the Senate Committee on Health;
13. Material from the legislative bill file of the Senate Committee on Health on Assembly Bill 2223 – *currently unavailable*;
14. Analysis of Assembly Bill 2223 prepared for the Senate Committee on Appropriations;
15. Material from the legislative bill file of the Senate Committee on Appropriations on Assembly Bill 2223;
16. Two Third Reading analyses of Assembly Bill 2223 prepared by the Office of Senate Floor Analyses;
17. Concurrence in Senate Amendments analysis of Assembly Bill 2223 prepared by the Assembly Committee on Judiciary;
18. News Release entitled "Asm. Wicks, Reproductive Health Advocates Celebrate Signing of AB 2223," from the Office of Assemblymember Buffy Wicks;
19. Post-enrollment documents regarding Assembly Bill 2223 - (Governor Newsom's legislative files are under restricted access and are not available to the public.);
20. Press Release issued by the Office of the Governor on September 27, 2022, to announce that Assembly Bill 2223 had been signed;
21. Excerpt regarding Assembly Bill 2223 from the 2021-2022 *Bill Summary*, prepared by the Assembly Committee on Judiciary;
22. Excerpt regarding Assembly Bill 2223 from the 2021-2022 *Legislative Summary*, prepared by the Assembly Committee on Health;
23. Excerpt regarding Assembly Bill 2223 from the 2021-2022 *Legislative Bill Summaries*, prepared by the Senate Committee on Judiciary;
24. Excerpt regarding Assembly Bill 2223 from the 2021-2022 *Legislative Summary*, prepared by the Senate Committee on Health;

25. Article entitled "Fact Check: Do California lawmakers want to decriminalize infanticide? Here's what we found," from *The Sacramento Bee*, April 19, 2022;
26. Article entitled "False claims about California abortion-related bill spread thousands of times on social media," from the *Los Angeles Times*, May 5, 2022;
27. Article entitled "California's Newly Amended 'Infanticide' Bill Headed to Senate," from the *California Globe*, June 13, 2022;
28. Article entitled "California passes 'historic' legislative package protecting or expanding abortion access," from *CNN*, September 1, 2022;
29. Article entitled "California Gov. Gavin Newsom signs bill barring prosecution for pregnancy loss," from *The Sacramento Bee*, September 27, 2022.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th day of August, 2024 at Woodland, California.

Anna Maria Bereczky-Anderson

ANNA MARIA BERECZKY-ANDERSON

ASSEMBLY BILL No. 2223

Introduced by Assembly Member Wicks

February 15, 2022

An act relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as introduced, Wicks. Reproductive health.

Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions.

This bill would state the intent of the Legislature to enact legislation that would relate to reproductive health.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to enact legislation that would relate to reproductive health.

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AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 2223

Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)

February 15, 2022

An act *to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code,* relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as amended, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal

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death to establish, bring, or support a criminal prosecution or civil cause of damages against any person.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff.

~~Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions.~~

~~This bill would state the intent of the Legislature to enact legislation that would relate to reproductive health.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

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(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report

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people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

(l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; ~~deaths related to or following known or suspected self-induced or criminal abortion;~~ known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape or crime against nature; deaths in prison or while under sentence; deaths

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known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state ~~mental~~ hospitals serving the mentally ~~disabled~~ *disordered* and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under ~~such~~ circumstances ~~as to~~ *that* afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) ~~In any case in which~~ *If* the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of ~~his or her~~ *the* report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) ~~Any~~ *A* funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. ~~Any~~ *A* person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

~~103000. All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance.~~

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SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. *(a)* The coroner ~~shall~~ *shall,* within three days after examination of the ~~fetus~~ *fetus,* state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner ~~shall~~ *shall,* within three days after examining the ~~body~~ *body,* deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive ~~decisions.~~ *decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.* Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every ~~woman~~ *individual* has the fundamental right to choose to bear a child or to choose *to have* and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with ~~a woman's~~ *an individual's* fundamental right to choose to bear a child or to choose *to have and* to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state ~~may~~ *shall* not deny or interfere with a ~~woman's~~ *pregnant person's* right to choose or obtain an abortion

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prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the ~~woman.~~ *pregnant person*.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized *if performed by someone other than the pregnant person and* if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant ~~woman.~~ *person*.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court. A state claim brought in federal district court shall be a supplemental claim to a federal claim.

(b) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation

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expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

~~SECTION 1. It is the intent of the Legislature to enact legislation that would relate to reproductive health.~~

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AMENDED IN ASSEMBLY APRIL 6, 2022

AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 2223

Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)

February 15, 2022

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as amended, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended

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fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Existing law, the Tom Bane Civil Rights Act, authorizes an individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, to institute or prosecute in their own name and on their own behalf an action for damages, as prescribed.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. *The bill would also authorize a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

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(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging,

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gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged ~~rape or crime against nature;~~ *rape;* deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

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SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every individual has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with an individual's fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state shall not deny or interfere with a pregnant person's right to choose or obtain an abortion prior to viability of

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the fetus, or when the abortion is necessary to protect the life or health of the pregnant person.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their ~~rights,~~ *rights under this article,* based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal ~~death.~~ *death due to a pregnancy-related cause*.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a ~~federal district court or~~ state superior court. ~~A state claim brought in federal district court shall be a supplemental claim to a federal claim.~~

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(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

~~(b)~~

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought

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under this section against an employee or former employee of a public entity.

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AMENDED IN ASSEMBLY MAY 19, 2022

AMENDED IN ASSEMBLY APRIL 6, 2022

AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 2223

Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)
(Coauthors: Assembly Members Bennett, Cristina Garcia, Haney, Jones-Sawyer, and Kalra)

February 15, 2022

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as amended, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

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This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Existing law, the Tom Bane Civil Rights Act, authorizes an individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, to institute or prosecute in their own name and on their own behalf an action for damages, as prescribed.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. The bill would also authorize a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.

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Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

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(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected

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homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

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SEC. 3. Section 103000 of the Health and Safety Code is repealed.

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every individual has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with an individual's fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

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123466. The state shall not deny or interfere with a pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the pregnant person.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to ~~a pregnancy-related cause.~~ *causes that occurred in utero*.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a state superior court.

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(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought

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under this section against an employee or former employee of a public entity.

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AMENDED IN SENATE JUNE 20, 2022

AMENDED IN ASSEMBLY MAY 19, 2022

AMENDED IN ASSEMBLY APRIL 6, 2022

AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 2223

Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)
(Coauthors: Assembly Members *Bauer-Kahan,* Bennett, *Berman,* Cristina Garcia, Haney, Jones-Sawyer, and Kalra)
(Coauthors: Senators Gonzalez and Wiener)

February 15, 2022

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as amended, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing

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law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against ~~any person.~~ *a person who is immune from liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, or who aids a pregnant person in exercising their rights under the Reproductive Privacy Act, as specified*.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Existing law, the Tom Bane Civil Rights Act, authorizes an individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, to institute or prosecute in their own name and on their own behalf an action for damages, as prescribed.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party ~~aggrieved by a violation of~~ *whose rights are protected by* the Reproductive Privacy Act to bring a civil action against an offending

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state ~~actor,~~ *actor when those rights are interfered with by conduct or by statute, ordinance, or other state or local rule, regulation, or enactment in violation of the act,* as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. The bill would also authorize a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses. *For example, the District Attorney in the*

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County of Kings prosecuted two women for murder after they suffered stillbirths.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients. *Existing law prohibits a positive toxicology screen at the time of delivery of an infant from being, in and of itself, a sufficient basis for reporting child abuse or neglect.*

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(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

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(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any ~~person, whether or not they were the person who was pregnant with the fetus.~~ *person who is immune from liability under Section 123467*. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy,

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including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every *pregnant* individual *or individual who may become pregnant* has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with ~~an individual's~~ *the* fundamental right *of a pregnant individual or an individual who may become pregnant* to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state shall not deny or interfere with a pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the pregnant person.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

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(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party ~~aggrieved by conduct or regulation in violation of this article~~ *whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of this article* may bring a civil action against an offending state actor in a state superior court.

(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

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(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

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AMENDED IN SENATE AUGUST 25, 2022

AMENDED IN SENATE JUNE 20, 2022

AMENDED IN ASSEMBLY MAY 19, 2022

AMENDED IN ASSEMBLY APRIL 6, 2022

AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL No. 2223

Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)
(Coauthors: Assembly Members Bauer-Kahan, Bennett, Berman, *Bryan,* Cristina Garcia, Haney, Jones-Sawyer, ~~and Kalra~~) *Kalra, and Santiago)*
(Coauthors: Senators Gonzalez and Wiener)

February 15, 2022

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as amended, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation,

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unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against a person who is immune from liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, or who aids a pregnant person in exercising their rights under the Reproductive Privacy Act, as specified.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Existing law, the Tom Bane Civil Rights Act, authorizes an individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, to institute or prosecute in their own name and on their own behalf an action for damages, as prescribed.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a *woman or* pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is

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authorized to perform an abortion or the fetus is viable. The bill would authorize a party whose rights are protected by the Reproductive Privacy Act to bring a civil action against an offending state actor when those rights are interfered with by conduct or by statute, ordinance, or other state or local rule, regulation, or enactment in violation of the act, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. The bill would also authorize a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.

(3) This bill would incorporate additional changes to Section 123466 of the Health and Safety Code proposed by AB 2091 to be operative only if this bill and AB 2091 are enacted and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

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(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses. For example, the District Attorney in the County of Kings prosecuted two women for murder after they suffered stillbirths.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual,

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potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients. Existing law prohibits a positive toxicology screen at the time of delivery of an infant from being, in and of itself, a sufficient basis for reporting child abuse or neglect.

(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

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(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person who is immune from liability under Section 123467. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

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123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with the fundamental right of a pregnant individual or an individual who may become pregnant to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state shall not deny or interfere with a *woman's or* pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the *woman or* pregnant person.

SEC. 6.5. Section 123466 of the Health and Safety Code is amended to read:

123466. *(a)* The state ~~may~~ *shall* not deny or interfere with a woman's *or pregnant person's* right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the ~~woman.~~ *woman or pregnant person*.

(b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

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123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of this article may bring a civil action against an offending state actor in a state superior court.

(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

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(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

SEC. 10. Section 6.5 of this bill incorporates amendments to Section 123466 of the Health and Safety Code proposed by this bill and Assembly Bill 2091. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 123466 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2091, in which case Section 123466 of the Health

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and Safety Code, as amended by Assembly Bill 2091, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

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Assembly Bill No. 2223

CHAPTER 629

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

[Approved by Governor September 27, 2022. Filed with Secretary of State September 27, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against a person who is immune from liability based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, or who aids a pregnant person in exercising their rights under the Reproductive Privacy Act, as specified.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Existing law, the Tom Bane Civil Rights Act, authorizes an individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this

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state, has been interfered with, or attempted to be interfered with, to institute or prosecute in their own name and on their own behalf an action for damages, as prescribed.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a woman or pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party whose rights are protected by the Reproductive Privacy Act to bring a civil action against an offending state actor when those rights are interfered with by conduct or by statute, ordinance, or other state or local rule, regulation, or enactment in violation of the act, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. The bill would also authorize a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.

(3) This bill would incorporate additional changes to Section 123466 of the Health and Safety Code proposed by AB 2091 to be operative only if this bill and AB 2091 are enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not

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a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses. For example, the District Attorney in the County of Kings prosecuted two women for murder after they suffered stillbirths.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients. Existing law prohibits a positive toxicology screen at the time of delivery of an infant from being, in and of itself, a sufficient basis for reporting child abuse or neglect.

(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended

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by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging, gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged rape; deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner

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shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person who is immune from liability under Section 123467. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with the fundamental right of a pregnant individual or an individual who may become pregnant to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

SEC. 6.5. Section 123466 of the Health and Safety Code is amended to read:

123466. (a) The state shall not deny or interfere with a woman's or pregnant person's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

(b) A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another state's laws that interfere with a person's rights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

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123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in violation of this article may bring a civil action against an offending state actor in a state superior court.

(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this

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section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

SEC. 10. Section 6.5 of this bill incorporates amendments to Section 123466 of the Health and Safety Code proposed by this bill and Assembly Bill 2091. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 123466 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2091, in which case Section 123466 of the Health and Safety Code, as amended by Assembly Bill 2091, shall remain operative only until the operative date of this bill, at which time Section 6.5 of this bill shall become operative, and Section 6 of this bill shall not become operative.

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DO NOT DISCARD: This is the the last complete Weekly History of second−year bills

No. 38

CALIFORNIA LEGISLATURE

AT SACRAMENTO

2021−22 REGULAR SESSION

ASSEMBLY WEEKLY HISTORY

COMMENCING WITH AB 1 AND ENDING WITH AB 2976

WEDNESDAY, NOVEMBER 30, 2022

HON. ANTHONY RENDON
Speaker

HON. KEVIN MULLIN
Speaker pro Tempore

HON. ELOISE GÓMEZ REYES
Majority Leader

HON. MIA BONTA
Assistant Speaker pro Tempore

HON. JAMES GALLAGHER
Republican Leader

Assembly Convened December 7, 2020

Compiled Under the Direction of
SUE PARKER
Chief Clerk

STEVEN SEPULVEDA
History Clerk

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

A.B. No. 2223—Wicks (Principal coauthor: Mullin) (Coauthors: Bauer−Kahan, Bennett, Berman, Bryan, Cristina Garcia, Haney, Jones−Sawyer, Kalra, and Santiago) (Coauthors: Senators Gonzalez and Wiener).

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

2022

Feb. 15—Read first time. To print.
Feb. 16—From printer. May be heard in committee March 18.
Mar. 17—Referred to Coms. on JUD. and HEALTH. From committee chair, with author's amendments: Amend, and re−refer to Com. on JUD. Read second time and amended.
Mar. 21—Re−referred to Com. on JUD.
Apr. 5—From committee: Amend, and do pass as amended and re−refer to Com. on HEALTH. (Ayes 7. Noes 2.) (April 5).
Apr. 6—Read second time and amended.
Apr. 7—Re−referred to Com. on HEALTH.
Apr. 20—From committee: Do pass and re−refer to Com. on APPR. (Ayes 11. Noes 3.) (April 19). Re−referred to Com. on APPR.
May 4—In committee: Set, first hearing. Referred to suspense file.
May 19—From committee: Amend, and do pass as amended. (Ayes 12. Noes 4.) (May 19). Read second time and amended. Ordered returned to second reading.
May 23—Read second time. Ordered to third reading.
May 26—Read third time. Passed. Ordered to the Senate. (Ayes 48. Noes 21.)
May 27—In Senate. Read first time. To Com. on RLS. for assignment.
Jun. 8—Referred to Coms. on JUD., HEALTH and PUB. S.
Jun. 9—Action rescinded whereby the bill was referred to Com. on PUB. S.
Jun. 15—From committee: Do pass and re−refer to Com. on HEALTH. (Ayes 9. Noes 2.) (June 14). Re−referred to Com. on HEALTH.
Jun. 20—From committee chair, with author's amendments: Amend, and re−refer to committee. Read second time, amended, and re−referred to Com. on HEALTH.
Jun. 29—In committee: Testimony taken. Hearing postponed by committee.
Jun. 30—From committee: Do pass and re−refer to Com. on APPR. (Ayes 7. Noes 2.) (June 30). Re−referred to Com. on APPR.
Aug. 2—In committee: Referred to suspense file.
Aug. 11—From committee: Do pass. (Ayes 5. Noes 2.) (August 11). Read second time. Ordered to third reading.
Aug. 25—Read third time and amended. Ordered to third reading.
Aug. 29—Read third time. Passed. Ordered to the Assembly. (Ayes 30. Noes 9. Page 5218.).
Aug. 30—In Assembly. Concurrence in Senate amendments pending. Senate amendments concurred in. To Engrossing and Enrolling. (Ayes 54. Noes 19. Page 6464.).
Sep. 12—Enrolled and presented to the Governor at 4 p.m.
Sep. 27—Approved by the Governor.
Sep. 27—Chaptered by Secretary of State − Chapter 629, Statutes of 2022.

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Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 2223 (Wicks) – As Amended March 17, 2022

As Proposed to be Amended

SUBJECT: REPRODUCTIVE HEALTH

KEY ISSUES:

1) SHOULD STATE LAWS THAT PROHIBIT THE IMPOSITION OF CIVIL AND CRIMINAL PENALTIES FOR PREGNANCY LOSS BE STRENGTHENED AND CLARIFIED?

2) SHOULD A NEW PRIVATE RIGHT OF ACTION BE CREATED IN THE LAW THAT ALLOWS INDIVIDUALS WHOSE RIGHTS TO BE FREE OF CIVIL AND CRIMINAL PENALTIES FOR PREGANCY LOSS ARE VIOLATED TO SEEK ACCOUNTABILITY FOR THOSE VIOLATIONS IN THE STATE'S CIVIL COURTS?

SYNOPSIS

This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion. The analysis reviews how existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. Existing state law also prohibits a civil cause of action for prenatal torts (civil actions involving an unborn child). The analysis also points out that while other states are adopting increasingly aggressive measures to limit abortions, California continues to protect reproductive rights.

The bill has two main provisions. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second, it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act. The analysis points out that there are some issues with the wording of Sections 7 of the bill in print (the immunity provision) because it has (1) an unintended impact on child welfare laws; and (2) creates the mistaken and unintended impression that the bill's immunities could apply to cases where a newborn's death was the result of a cause that was not related to the parent's acts or omissions during pregnancy. Similarly, Section 9 of the bill in print (the private right of action) appears to (1) inappropriately dictate the parameters of federal court jurisdiction; (2) provide inadequate remedies to a plaintiff; and (3) inadequately address general and specific forms of governmental immunity. The author proposes amendments to address all of these issues. The amendments are incorporated into the Summary of the bill, below, and explained in the analysis.

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The bill is co-sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. It is also supported by a large number of reproductive health advocates, public health associations, organizations advocating to improve maternal and infant health, as well as civil rights advocacy organizations. The bill is opposed by a large number of religious organizations, organizations that oppose abortion rights, and numerous individuals.

SUMMARY: Strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action that allows individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated to seek accountability, and limits the duties of coroners to be consistent with those laws. Specifically, **this bill**:

1) Makes the following findings and declarations on the part of the Legislature:

   a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

   b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

   c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

   d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

   e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

   f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

   g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

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h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

2) Repeals Government Code Section 103000, which provides that. "All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance."

3) Removes from existing law, under existing duties of the coroner, the duty to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

4) Clarifies that existing law, requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

5) States that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

6) Provides that notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy

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outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause.

7) Provides that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

8) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law *and* it is performed by someone other than the pregnant person.

9) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act (Sections 123460 – 123468 of the Health & Safety Code) to bring a civil action against an offending state actor in a state superior court.

10) States that whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

    a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

    b) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice in violation of this article.

    c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

11) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 9), above. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

12) Allows a party aggrieved by conduct or regulation in violation of this article to also bring a civil action pursuant to the Bane Civil Rights Act; and provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article. Provides, for purpose of establishing liability, that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

13) Changes gendered terminology in relevant code sections and eliminates the offensive and outdated "crime against nature" from existing code.

14) Specifies that Sections 825, 825.2, 825.4, and 825.6 of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, shall

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apply to any cause of action brought under this section against an employee or former employee of a public entity.

EXISTING LAW:

1) Provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and that the United States Congress may by general laws prescribe the manner in which such acts, records and proceedings must be proved, and the effect thereof. (U.S. Const. art. IV, sec. 1.)

2) Holds that the state cannot interfere with the fundamental right of a woman to control her life and future by restricting the right to obtain an abortion unless and until there is a compelling reason for doing so; and that a compelling interest in protecting the potential life of the fetus cannot be asserted until the fetus is "viable" (usually at the beginning of the last trimester of pregnancy), and even then a woman has to have access to an abortion if it were necessary to preserve her life or health. (*Roe v. Wade* (1973) 410 U.S. 113.)

3) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies. (Government Code Section 27491.)

4) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director. (Health & Safety Code Section 103005.)

5) Provides, in the Reproductive Privacy Act (Health & Safety Code Sections 123460 – 123468), that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control.

   b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article.

   c) The state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by this article.

6) Prohibits the State of California from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (Health & Safety Code Section 123466.)

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7) Provides that a public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause. (Government Code Section 821.6.)

8) Provides that a public employee is not liable for his act or omission, exercising due care, in the execution or enforcement of any law, but is liable for false arrest or false imprisonment. (Government Code Section 820.4.)

9) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct. (Civil Code Section 52.1 (c).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion. According to the author:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

The bill also limits the duties of coroners to be consistent with laws that protect pregnant persons from civil liability and criminal prosecution for the death of their unborn fetus. Because duties of coroners are in the jurisdiction of the Assembly Committee on Health, this analysis will not focus on those issues.

Existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. While California's murder statute, Penal Code Section 187, specifically applies to the unlawful killing of a fetus with malice aforethought, by its own terms, it is inapplicable "when the act is solicited, aided, abetted, or consented to by the mother of the fetus." (Penal Code Section 187 (b)(3).) While the Legislature broadened the scope of section 187 to include the unlawful killing of a fetus in specific response to the California Supreme Court's decision in *Keeler v. Superior Court* (1970) 2 Cal.3d 619, the revised wording was intended to situations where a third party intended to cause the death of a fetus. In *Keeler*, the defendant was charged with murder after he attacked his pregnant ex-wife, intentionally causing the death of her fetus. The *Keeler* Court held that the then-existing wording of Section 187, defining murder as the unlawful "killing of a 'human being," did not encompass the killing of a

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fetus. In amending Section 187 in response to *Keeler*, the Legislature intended to criminalize only third-party violence against pregnant persons resulting in fetal death. There is no evidence of legislative intent to extend criminal liability to the mother of the unborn fetus.

Nevertheless, there apparently is confusion among some in law enforcement during the fifty-two years since *Keeler*. On January 6, 2022, Attorney General Rob Bonta issued a Legal Alert (OAG-2021-01) to all California District Attorneys, Police Chiefs, and Sheriffs, regarding "Penal Code 187 and 'the unlawful killing of . . .a fetus'." The alert informed law enforcement of the following:

> The Attorney General has construed Penal Code section 187 as it relates to the actions or inactions of a person carrying a fetus that are alleged to have caused the death of that fetus. The Attorney General's construction is contained in court documents filed in multiple cases, including the attached amicus brief filed in *In re Perez*, Case No. 21W-0033A, Kings Co. Sup. Court (June 25, 2021).

In *Perez,* the defendant experienced a stillbirth at 37 weeks gestation attributed to her methamphetamine use. She was charged with murder and pled guilty to the less serious crime of manslaughter, according to transcripts of her plea, "to avoid the possibility of getting the life sentence on the murder case." However, she could not have been convicted of (and should therefore should not have been charged with) murder pursuant to *Keeler*, given that the fetus was never alive; and there was no factual basis for her plea to manslaughter, given that the killing of a fetus does not constitute manslaughter (*People v. Dennis* (1998) 17 Cal.4th 468, 506). In an amicus brief supporting the release of Perez (who was sentenced in June of 2018 to an 11-year prison sentence), the AG wrote, "The Attorney General agrees . . . that the text, purpose, and legislative history of California Penal Code section 187 demonstrate that a woman cannot be prosecuted for murder as a result of her own omissions or actions that might result in pregnancy loss." Perez was finally released from custody in March of 2022, but the Kings County District Attorney's Office refiled murder charges against her. They were dismissed in May of 2022, but the DA's office has vowed to refile them again.

> The Legislature's purpose in adding the killing of a fetus to Penal Code section 187 was not to punish women who do not--or cannot, because of addiction or resources- follow best practices for prenatal health. Nor did it intend to punish women who might in desperation seek to end their pregnancies outside normal medical channels. Rather, this addition was a focused response to *Keeler v. Superior Court* (1970) 2 Cal.3d 619, holding that the unlawful "killing of a human being" did not encompass a fetus. (See Assem. Com. on Crim. Procedure's Dig., Assem. Bill No. 816 (1970 Reg. Sess.) (July 15, 1970); Review of Selected 1970 California Legislation, Crimes (1971) 2 Pacific L. J. 275, 362-363 [amendment to section 187 "was enacted in response to a June 1970 decision of the California Supreme Court (Keeler v. Superior Court, 2 Cal.3d 619)").) Keeler was charged with the murder of a fetus after he attacked his pregnant ex-wife, intentionally causing a stillbirth. The court ordered that Keeler's prosecution for murder was barred under Section 187 as it was then written. (*Id*. at pp. 628, 631.)

As the AG also points out in his *Perez* amicus brief, the Legislature has repeatedly declined to extend the state's penal laws to encompass punishment of a pregnant woman who experiences a pregnancy loss. (See Sen. Bill No. 1465 (1989-1990 Reg. Sess.) [proposed bill that would have expanded manslaughter to include substance abuse during pregnancy]; Assem. Bill No. 650

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(1990-199 1 Reg. Sess.) [proposed bill that would have made substance abuse during pregnancy a misdemeanor].) But under current law and its virtually complete liability shield for the exercise of prosecutorial discretion under Government Code Section 821.6, Perez would have no ability to sue those responsible for unlawfully imprisoning her for 11 years, despite the clearly invalidity of her prosecution and conviction. Her only remedy would be to submit a claim to the state for compensation pursuant to the state fund for erroneously convicted persons. (See Penal Code Sections 4900 *et seq.*) Pursuant to a 2016 amendment, the law provides a flat compensation rate of $140 per day for each day of incarceration served, including pre-conviction time spent in custody. Obviously, this does not take into account a person's individual damages that could include loss of income, loss of parenting rights, loss of reputation, and personal injuries suffered during incarceration.

Existing state law prohibits a civil cause of action for prenatal torts. A prenatal tort is a tort (a civil cause of action for damages based upon a wrongful act that causes injury) involving an unborn child. Prenatal tort causes of action include personal injury, wrongful birth, wrongful life, and wrongful pregnancy. But at common law, they do not include wrongful death or wrongful injury. Any right to recovery or cause of action belonged only to the mother because "the unborn child was a part of the mother at the time of the injury, any damage to it which was not too remote to be recovered for at all was recoverable by her." (*Dietrich v. Inhabitants of Northampton* (1884) 138 Mass. 14, 17.)

While some states have repudiated the reasoning of *Dietrich* and authorized civil actions for prenatal injuries caused by tortious conduct that occurs prior to birth, California law remains consistent with the theory expressed in *Dietrich.* Under California law, a fetus or embryo not born alive never attains the status of a "person;" and only a "person" can maintain a legal action or be the subject of a wrongful death claim. Thus, whether the alleged tortfeasor is a pregnant person or a third party, a civil cause of action cannot arise under existing California law for injury or death to a fetus if the fetus is never alive outside of the womb. (See *Hegyes v. Unjian Enterprises, Inc.* (1991) 234 CA3d 1103, 1113 [a negligent motorist was found not legally liable to a child conceived after collision occurred].)

Other states are adopting increasingly aggressive measures to limit abortions. Following the appointment of several Supreme Court justices by former President Donald Trump, dozens of states have enacted legislation in an effort to test the limits, or outright overturn, the federally protected right to an abortion granted in the landmark ruling of *Roe v. Wade* (1973) 410 US 113. One of the first states to restrict abortion access was Mississippi, which enacted a ban on abortion after the fifteenth week of pregnancy. The Mississippi law authorizes the state's Attorney General, as well as the Mississippi State Department of Health or the Mississippi State Board of Medical Licensure, to impose professional sanctions, including fines and a loss of licensure, on any physician who performs an abortion after 15 weeks. (MS Code Section 41-41-191.) The constitutionality of that statute is currently under review by the United States Supreme Court, which is expected to rule in the matter of *Dobbs v. Jackson Women's Health Organization* (No. 19-1392) later in 2022.

Although several states have opted to follow Mississippi's lead and enact similar laws, in 2021, the State of Texas adopted a unique and far more menacing approach to restricting abortion access. Rather than directing state regulators or prosecutors to impose criminal or professional sanctions on persons receiving or performing an abortion, the Texas law permits the filing of a civil lawsuit against any person who performs an abortion or "aids or abets" a person receiving

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an abortion after a "fetal heartbeat" has been detected. (Texas Health and Safety Code Section 171.208.) As of March 2022, more than one dozen other states have moved to introduce their own versions of the Texas law.

This bill. The bill has are two main provisions that are in the jurisdiction of this Committee. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act.

Prohibition on civil and criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. In Section 7, the bill in print provides the following protection from liability to a pregnant person relative to their pregnancy outcomes:

> (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.

(The bill also specifies that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights.)

Unintended Impact on Child Welfare Laws - Subdivision (a) of Section 7 is arguably overbroad in at least two ways. First, it appears to immunize a pregnant person from not only all civil liability and criminal penalty for their pregnancy outcomes (consistent with existing law), but also from being "otherwise deprived of their rights" for any of their actions with respect to their pregnancy. This is not consistent with current law, given that child welfare laws allow consideration of a parent's dangerous acts during pregnancy because those acts could affect the welfare of a child who is born after the pregnancy, or other children who are in the person's household. Thus, a pregnant person's actions during pregnancy *could* ultimately affect their parenting rights and result in the deprivation of those rights. For example, reunification services are not required to be provided to a parent with a history of extensive, abusive, and chronic use of drugs or alcohol who has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brings a child to the court's attention. (Welfare & Institutions Code Section 361.5 (b)(13).) Likewise, drug use by a caretaker can be considered in evaluating the welfare of other children in the parent's custody or care. All States, the District of Columbia, Guam, and the U.S. Virgin Islands have provisions within their child protection statutes, regulations, or policies that address the issue of substance use by parents. (Child Welfare Information Gateway. (2020). *Parental substance use as child abuse.* Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, available at https://www.childwelfare.gov/pubPDFs/parentalsubstanceuse.pdf.)

Given that existing law allows a pregnant person's actions during pregnancy to be considered in a manner that could impact their parenting rights, the grant of immunity in Section 7 of the bill in print arguably is overly broad. However, it should be pointed out that the bill, even as it is now in print, is not so broad that it would prevent CPS or law enforcement investigations of a child's death. The bill provides that "*a person* shall not be subject to civil or criminal liability or penalty . . .based on *their actions or omissions* with respect to their pregnancy or actual, potential, or alleged pregnancy outcome[.]" Therefore, the facts of a child's death could be investigated

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(whether it was born alive, when and how it died, etc.) but depending on the outcome of that investigation (whether the death was related to a pregnancy-related cause), further criminal investigation of the parent may be prohibited. In response to a question asked by Americans United for Life, "If a baby is found in a dumpster can law enforcement investigate the child's death?" the answer is yes.

In order to clarify that the immunity provided by the bill only extends to the deprivation of rights related to pregnancy, the author proposes the following amendment on Page 7, at line 7: insert the words "***under this article***" after the word "rights".

"Perinatal Death" - Second, the "perinatal death" language could lead to an unintended and undesirable conclusion. As currently in print, it may not be sufficiently clear that "perinatal death" is intended to be the consequence of a pregnancy complication. Thus, the bill could be interpreted to immunize a pregnant person from all criminal penalties for all pregnancy outcomes, including the death of a newborn for any reason during the "perinatal" period after birth, including a cause of death which is not attributable to pregnancy complications, which clearly is not the author's intent.

While the bill does not define "perinatal," the term is generally used to describe the period from approximately past 22 (or 28) completed weeks of pregnancy up to 7 completed days of life. (L.S.Bakketeig, P.Bergsjø, "Perinatal Epidemiology." International Encyclopedia of Public Health (2008), p. 45.) Welfare & Institutions Code Section 13134.5(b) defines perinatal as "the period from the establishment of pregnancy to one month following delivery."

In order to clarify that the bill's immunity provision is only intended to apply to a perinatal death after a live birth when the cause of death is directly attributable to pregnancy, the author proposes the following clarifying amendment on Page 7, at line 10: insert "***due to a pregnancy related cause***" at the end of the sentence. Reflecting both of the above-proposed amendments, the entire subdivision would read as follows:

> **123467.** (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights ***under this article***, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death ***due to a pregnancy-related cause***.

A new private right of action for violation of rights protected by the Reproductive Privacy Act. In Section 9, the bill in print authorizes a civil action against "an offending state actor" for violating rights protected under the Reproductive Privacy Act and attempts to establish grounds requiring a federal court to exercise its supplemental jurisdiction.

> 123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court. A state claim brought in federal district court shall be a supplemental claim to a federal claim.

The language of Section 9 of the bill as it is now in print raises several issues and potential problems.

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The bill in print appears to inappropriately dictate the parameters of federal court jurisdiction. The jurisdiction of federal courts is governed exclusively by federal law, primarily the Federal Rules of Civil Procedure. State law cannot supersede federal law to grant jurisdiction over state claims to a federal court. In general, U.S. district courts can exercise subject matter jurisdiction over a case when either a claim is pled that presents a federal question, or complete diversity exists between the parties and meets a minimum damages threshold. Supplemental jurisdiction over state law claims is just that: a supplement to the claim over which the district court has original jurisdiction, in instances where the state law claims are so closely related to the federal claim that the claims form a part of the same case or controversy. Supplemental jurisdiction is meant to ensure efficient use of judicial resources and to prevent inconsistent outcomes in state and federal cases arising from the same set of facts. These are all procedural considerations that are not raised and cannot be mandated by this bill.

Second, Section 9 provides few remedies to plaintiffs (other than attorney's fees and costs) and fails to address the governmental immunities in existing law that would prohibit most civil actions brought pursuant to the section. While neither the "conduct or regulation" nor the specific "state actor" is specified in the bill, the intent of the bill—as expressed in the bill's intent language set forth in Section 1—is focused on the unlawful criminal prosecution of pregnant women for their pregnancy outcomes. However, a new private right of action would have virtually no chance of success under the bill in print because of both general and specific immunities for public employees in existing state law, as explained in more detail below.

A civil suit based upon a state actor's violation of a plaintiff's fundamental rights granted by the laws or Constitution of the United States, or by the laws or Constitution of the state of California, such as the right to obtain an abortion, could be brought under existing law. The Tom Bane Civil Rights Act is one of the three major civil rights statutes in state law (along with the Unruh Civil Rights Act and the Ralph Act). The Bane Act makes it unlawful for any person, *whether or not acting under color of law,* to interfere, or attempt to interfere, by threat, intimidation, or coercion, with any other person in the exercise of any rights granted by the laws or Constitution of the United States, or by the laws or Constitution of the state of California. There are two important, and sometimes misunderstand points, to make about the Bane Act. First, the Bane Act is similar to Section 1983 of the federal Civil Rights Act of 1871 in that both permit a person to file a lawsuit against someone who interferes with the exercise of their civil and constitutional rights; indeed lawsuits against public employees, including peace officers, and the entities that employ them, often combine a Section 1983 claim and a Bane Act claim. However, there is also a significant difference: while a Section 1983 lawsuit must be filed against someone "acting under the color of law" (under the apparent authority of government), the Bane Act makes it unlawful for *any person* to interfere with the rights of another "whether or not acting under color of law." While this bill is targeted at "state actors," who presumably would be acting under color of law, the Bane Act is not limited to government actors. (*See e.g. Jones v. Kmart Corp.* (1998), 17 Cal. 4th 329 [ultimately finding Kmart not liable but not questioning that it could be a defendant in a Bane Act action].)

Second, the Bane Act is sometimes referred to as a "hate crime" statute, largely due to examples cited in support of the bill when it was enacted in 1987. However, unlike the Unruh Act and the Ralph Act, there is no reference in the Bane Act to "protected characteristics" that are typically required to make something a hate crime. In sum, one does not need to be a member of a protected group to bring an action under the Bane Act, not does the act of interference need to be based on the targeted person's protected characteristics. Originally, some courts held that the

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Bane Act required discriminatory animus on the basis of a protected characteristic, but in 2004, the California Supreme Court made clear that it was not the case, as the plain language of the statute, unlike the Unruh and Ralph Acts, does not mention any protected characteristics. (*See Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 841-843 ("*Venegas I*") [overturning prior decisions to the extent that they assumed a Bane Act action needed to be based on animus toward a protected characteristic].) In sum, the Bane Act is a broad and potentially powerful civil rights statute that allows *any* person to bring a lawsuit against *any* other *person* (not just a person acting under color of law) who interferes with *any* legal or Constitutional right by means of threats, intimidation, or coercion, or who attempts to interfere with those rights by those means.

The Bane Act and sovereign (governmental) immunity. California's Government Claims Act (formerly known as the "Tort Claims Act") codifies the concept of "sovereign immunity," which essentially shields government from civil lawsuits, except under very limited circumstances. Rooted in the ancient principle that no one can drag the King into court – it was the "King's Court," after all – the concept morphed into the idea that even "non-monarchical" governments, and government employees acting within the scope of their duties, should enjoy at least a "qualified immunity" from civil suits. California's Government Claims Act starts with the broad claim that "a public entity is not liable for an injury" caused by the entity, *except* as otherwise provided by another statute. In short, we start with the assumption that the government is immune from liability *unless* the Legislature enacts a statute providing otherwise. Despite this broad assertion of immunity, the Legislature has used its power to enact exceptions over the years. Most significant, Government Code Section 815.2 (a) provides that a public entity may be liable for injuries caused by an act or omission of its employees acting within the scope of employment, if the employee's act would subject the employee to liability. However, even where existing law permits an action against a public entity, the Government Claims Act still includes a "presentation" requirement for most causes of action. Although there are important exceptions, as a general rule a person wishing to sue a government entity or government employee must first "present" a claim to the entity and, in many cases, exhaust all administrative remedies before bringing an action in court. (Government Code Section 910 *et seq.*) And even then, specific laws that immunize certain actions (such as a prosecutor's discretion whether to initiate criminal charges – set forth on Government Code Section 821.6, discussed in more detail below) may preclude the success of a civil action brought under the Bane Act. Therefore, government immunity has been the major stumbling block to persons seeking justice when their rights are violated, sometimes violently and fatally, such as by law enforcement officers.

Last year's SB 2 (Bradford) Chap. 409, Stats. 2021, amended the Bane Act to expressly provide that actions brought under its provisions are not subject to the government immunity provisions in Sections 821.6, 844.6, and 845.6 of the Government Code when a civil cause of action is "brought against any peace officer or custodial officer". These sections of the Government Claims Act grant immunity to public employees for injuries caused by instituting or prosecuting a judicial or administrative proceeding, even if the acts are malicious and without probable cause; to public entities for injuries caused to prisoners; to a public employee or a public entity for failure to provide medical care to a person in their custody. In addition, SB 2 specified that the provisions of the Government Claims Act that require public entities to indemnify and defend public employees for claims brought against the employee individually, apply to actions brought against public employees under the Bane Act. It should be pointed out that SB 2 did not affect the very broad immunity under Government Code Section 821.6 that applies to prosecutors and their exercise of prosecutorial discretion.

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Prosecutorial Immunity. Government Code Section 821.6 states that, "A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause." This statute has been interpreted to offer extremely broad immunity to prosecutors and their discretionary acts, including whether to initiate criminal charges. In *Sullivan v. County of Los Angeles* (1974) 12 Cal. 3d 710, the California Supreme Court interpreted section 821.6 as providing immunity of public employees against malicious prosecution claims and noted that "no statute imposes liability on public entities for malicious prosecution." as "confining its reach to malicious prosecution actions." (*Id.* at p. 720.)

This is similar to the immunity that prosecutors have under federal law that protects them from liability for exercising their prosecutorial discretion, even when it violates federal civil rights. "State prosecutors are absolutely immune from § 1983 actions when performing functions 'intimately associated with the judicial phase of the criminal process,' [Citation omitted] or, phrased differently, "when performing the traditional functions of an advocate." (*Kalina v. Fletcher* (1997) 522 U.S. 118, 131.) "Prosecutors are entitled to qualified immunity, rather than absolute immunity, when they perform administrative functions, or 'investigative functions normally performed by a detective or police officer.'" (*Genzler v. Longanbach* (9th Cir. 2005) 410 F.3d 630, 636 [quoting *Kalina*, 522 U.S. at 126].) The rationale is that prosecutors must be able to pursue criminals with courage and independence, and without worrying about the threat of lawsuits. "The common-law immunity of a prosecutor is based upon . . . concern that harassment by unfounded litigation would cause a deflection of the prosecutor's energies from his public duties, and the possibility that he would shade his decisions instead of exercising the independence of judgment required by his public trust." (*Imbler v. Pachtman* (1976) 424 U.S. 409, 422-423.)

This broad prosecutorial immunity has given inadequate recourse to plaintiffs harmed (including by being imprisoned for decades) by unconscionable prosecutorial misconduct, including fabricating evidence and negotiating a plea deal for which there clearly is no factual basis (such as a manslaughter conviction based upon the death of an unborn fetus). In the *Perez* case, discussed above, it means that she has no recourse after spending 11 years in prison, locked up for a crime that does not exist, other than pursuing an inadequate amount of compensation from the state fund for erroneously convicted persons.

Government Code Section 821.6 has never been amended or modified since it was enacted in 1963, despite the fact that appellate courts have confoundingly managed to expand its meaning beyond the parameters of *Sullivan.* (See, e.g., *Kayfetz v. State* (1984) 156 Cal. App. 3d 491, 497 ["section 821.6 is not limited to suits for damages for malicious prosecution, although that is a principal use of the statute"]; *Amylou R. v. Cty. of Riverside* (1994) 28 Cal. App. 4th 1205, 1211 [explaining that "the section clearly extends to proceedings which were not initiated out of a malicious intent, and thus would not constitute malicious prosecution"].) But that does not mean that Section 821.6 can't or shouldn't be amended or modified by the Legislature, just as the immunity for peace officers and custodial officers was modified last year by SB 2. (See also *Buckley v. Fitzsimmons* (1993) 509 U.S. 259, 268 [observing that because Congress could have abrogated prosecutorial immunity in Section 1983, but given that it did not do so explicitly and given the longevity of the concept, courts have assumed that it did intend to do so by implication].)

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Arguably there is no public policy rationale for giving prosecutors immunity for acts that clearly are outside the normal scope of prosecutorial discretion, such as fabricating evidence. In fact, the U.S. Supreme Court held as much when it declined to apply absolute immunity to a prosecutor who fabricated evidence of a defendant's guilt on the basis that evidence gathering (and fabrication) is not a prosecutorial function. "When a prosecutor performs the investigative functions normally performed by a detective or police officer, it is 'neither appropriate nor justifiable that, for the same act, immunity should protect the one and not the other.'" (*Buckley*, *supra,* at pp. 273-274.)

Likewise, there is no public policy rationale for granting absolute immunity to prosecutors for a decision to prosecute a pregnant woman for a pregnancy outcome in direct violation of a legislative directive not to do so. Although filing criminal charges is an exercise of prosecutorial discretion, where the law clearly prohibits criminal charges – as existing law does now (and the Reproductive Privacy Act would do in an even more clear and adamant way under the bill) – there is no discretion to file charges. Thus, especially given the extremely narrow scope of the liability under the bill (only for decisions to pregnant women for the loss of their pregnancy when the law prohibiting such prosecutions has clearly prohibited such prosecutions for more than 50 years), modifying the immunity protection offered by Government Code Section 821.6 seems justified and appropriate.

Author's amendments. In order to address the issues about Section 9 of the bill discussed above, the author proposes the following clarifying amendments:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a ~~federal district court or~~ state superior court. ~~A state claim brought in federal district court shall be a supplemental claim to a federal claim.~~
(b) ***Whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:***
(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.
(2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice violation of this article.
(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.
(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.
(d)(1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.
(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a

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person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code. (e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, shall apply to any cause of action brought under this section against an employee or former employee of a public entity.

The damages and other remedies proposed to be added to the bill are identical to those provided in Section 52 of the Civil Code for violations of the Unruh Civil Rights Act (Civil Code Section 51), the Civil Rights Act (Civil Code Section 51.5), and the Gender Tax Repeal Act of 1995 (Civil Code Section 51.6). It seems appropriate that the bill would incorporate those remedies, given that it also seeks to protect and provide remedies for violations of personal rights.

A plaintiff would also be specifically authorized to bring an action under the Bane Act for violations of the Reproductive Privacy Act. And while a plaintiff could do so now, the bill would provide new tools to a future plaintiff in two forms. First, the amendments propose to clarify that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome would constitute "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code. It is obvious that a criminal investigation or prosecution, or threat thereof—with its potential impacts on employment, parental rights, social status and reputation, and loss of freedom by imprisonment—is threatening and intimidating. The prospect of criminal punishment can also be highly coercive, as demonstrated in the *Perez* case, where the threat of lifetime punishment was used to extract an admission of guilt to a lesser criminal charge for which there was no factual basis. The proposed amendments would merely clarify the point. The proposed amendments also clarify that if a public employee were sued under the bill, their employer would be obligated to indemnify and defend the employee. The same language was enacted relative to the Bane Act in last year's SB 2.

Finally, the proposed amendments remove an offensive and obsolete term, "crime against nature," from Section 27491 of the Government Code.

ARGUMENTS IN SUPPORT*:* The co-sponsors--ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California--all write in support of the bill that it "protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss." They observe that although it "is not a crime to have an abortion, miscarriage, or experience pregnancy loss. .. [and] despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses." They observe that, "AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss." Black Women for Wellness Action Project point out that, "This bill is also particularly important to our organization our community, as we know that Black mommas and families are particularly and likely to be targeted." The California Women's Law Center observes that, "AB 2223 will protect reproductive freedom in California by clearly delineating that ending or losing a pregnancy is not a crime."

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***ARGUMENTS IN OPPOSITION**:* Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods." . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide." Virtually all of the groups in opposition express strong opposition to the bill's current language regarding "perinatal death" and many conclude that it could decriminalize the killing of a newborn. Americans United for Life asks, "If a baby is found in a dumpster can law enforcement investigate the child's death? Probably not under AB 2223." California Family council observes, "California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. Mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location." The Fredrick Douglass Foundation of California writes the following in opposition to the bill: "AB 2223 continues the practice of eugenics on steroids. It targets the very population it pretends to protect, women of color."

REGISTERED SUPPORT / OPPOSITION:

Support

Access Reproductive Justice
ACLU California Action (co-sponsor)
Black Women for Wellness Action Project (co-sponsor)
California Coalition for Women Prisoners
California for Safety and Justice
California Latinas for Reproductive Justice (co-sponsor)
California Nurse Midwives Association (CNMA)
California Women's Law Center
Californians United for A Responsible Budget
Citizens for Choice
Courage California
Disability Rights California
Ella Baker Center for Human Rights
If/when/how: Lawyering for Reproductive Justice (co-sponsor)
Initiate Justice
Naral Pro-choice California (co-sponsor)
National Center for Youth Law
National Health Law Program
Planned Parenthood Affiliates of California (co-sponsor)
Smart Justice California
Survived & Punished
Urge: Unite for Reproductive & Gender Equity
Women's Foundation California

Opposition

Americans United for Life
California Capitol Connection

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California Family Council
Calvary Chapel of Placerville
Capitol Resource Institute
Concerned Women for America
Frederick Douglass Foundation of California
Liberty Baptist Church of Norwalk, CA
National Center for Law & Policy
Pacific Justice Institute
Real Impact
Right to Life League of Southern California
Right to Life of Kern County
The Salt & Light Council
Traditional Values for Next Generations
Numerous individuals

Analysis Prepared by: Alison Merrilees / JUD. / (916) 319-2334

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Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON JUDICIARY
Mark Stone, Chair
AB 2223 (Wicks) – As Amended March 17, 2022

As Proposed to be Amended

SUBJECT: REPRODUCTIVE HEALTH

KEY ISSUES:

1) SHOULD STATE LAWS THAT PROHIBIT THE IMPOSITION OF CIVIL AND CRIMINAL PENALTIES FOR PREGNANCY LOSS BE STRENGTHENED AND CLARIFIED?

2) SHOULD A NEW PRIVATE RIGHT OF ACTION BE CREATED IN THE LAW THAT ALLOWS INDIVIDUALS WHOSE RIGHTS TO BE FREE OF CIVIL AND CRIMINAL PENALTIES FOR PREGANCY LOSS ARE VIOLATED TO SEEK ACCOUNTABILITY FOR THOSE VIOLATIONS IN THE STATE'S CIVIL COURTS?

SYNOPSIS

This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion. The analysis reviews how existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. Existing state law also prohibits a civil cause of action for prenatal torts (civil actions involving an unborn child). The analysis also points out that while other states are adopting increasingly aggressive measures to limit abortions, California continues to protect reproductive rights.

The bill has two main provisions. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second, it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act. The analysis points out that there are some issues with the wording of Sections 7 of the bill in print (the immunity provision) because it has (1) an unintended impact on child welfare laws; and (2) creates the mistaken and unintended impression that the bill's immunities could apply to cases where a newborn's death was the result of a cause that was not related to the parent's acts or omissions during pregnancy. Similarly, Section 9 of the bill in print (the private right of action) appears to (1) inappropriately dictate the parameters of federal court jurisdiction; (2) provide inadequate remedies to a plaintiff; and (3) inadequately address general and specific forms of governmental immunity. The author proposes amendments to address all of these issues. The amendments are incorporated into the Summary of the bill, below, and explained in the analysis.

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The bill is co-sponsored by ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California. It is also supported by a large number of reproductive health advocates, public health associations, organizations advocating to improve maternal and infant health, as well as civil rights advocacy organizations. The bill is opposed by a large number of religious organizations, organizations that oppose abortion rights, and numerous individuals.

SUMMARY: Strengthens and clarifies the state's existing prohibitions on imposing civil and criminal penalties for pregnancy loss, creates a new civil action that allows individuals whose rights to be free of civil and criminal penalties for pregnancy loss are violated to seek accountability, and limits the duties of coroners to be consistent with those laws. Specifically, **this bill**:

1) Makes the following findings and declarations on the part of the Legislature:

   a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

   b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

   c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

   d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

   e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

   f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

   g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

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h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

l) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

2) Repeals Government Code Section 103000, which provides that. "All other fetal deaths required to be registered under this chapter shall be handled as are deaths without medical attendance."

3) Removes from existing law, under existing duties of the coroner, the duty to inquire into and determine the circumstances, manner, and cause of all deaths related to or following known or suspected self-induced or criminal abortion.

4) Clarifies that existing law, requiring a coroner to examine a fetus and state on the certificate of fetal death, among other things, the direct causes of the fetal death, the conditions, if any, that gave rise to the cause or causes, shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

5) States that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

6) Provides that notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy

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outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause.

7) Provides that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

8) Clarifies that an abortion is unauthorized if it meets all of the criteria specified in existing law *and* it is performed by someone other than the pregnant person.

9) Allows a party aggrieved by conduct or regulation in violation of the Reproductive Privacy Act (Sections 123460 – 123468 of the Health & Safety Code) to bring a civil action against an offending state actor in a state superior court.

10) States that whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:

    a) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

    b) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice in violation of this article.

    c) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

11) Provides that, upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to 9), above. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

12) Allows a party aggrieved by conduct or regulation in violation of this article to also bring a civil action pursuant to the Bane Civil Rights Act; and provides that notwithstanding the existing immunities in Section 821.6 of the Government Code, a civil action pursuant to Bane Act may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article. Provides, for purpose of establishing liability, that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to the Bane Act.

13) Changes gendered terminology in relevant code sections and eliminates the offensive and outdated "crime against nature" from existing code.

14) Specifies that Sections 825, 825.2, 825.4, and 825.6 of the Government Code, which provide for defense and indemnification of an employee or former employee of a public entity, shall

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apply to any cause of action brought under this section against an employee or former employee of a public entity.

EXISTING LAW:

1) Provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and that the United States Congress may by general laws prescribe the manner in which such acts, records and proceedings must be proved, and the effect thereof. (U.S. Const. art. IV, sec. 1.)

2) Holds that the state cannot interfere with the fundamental right of a woman to control her life and future by restricting the right to obtain an abortion unless and until there is a compelling reason for doing so; and that a compelling interest in protecting the potential life of the fetus cannot be asserted until the fetus is "viable" (usually at the beginning of the last trimester of pregnancy), and even then a woman has to have access to an abortion if it were necessary to preserve her life or health. (*Roe v. Wade* (1973) 410 U.S. 113.)

3) Provides that it shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all specified types of death, including but not limited to violent, sudden, or unusual deaths; and deaths related to or following known or suspected self-induced or criminal abortion. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies. (Government Code Section 27491.)

4) Requires the coroner, within three days after examination of the fetus, to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director. (Health & Safety Code Section 103005.)

5) Provides, in the Reproductive Privacy Act (Health & Safety Code Sections 123460 – 123468), that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Accordingly, it is the public policy of the State of California that:

   a) Every individual has the fundamental right to choose or refuse birth control.

   b) Every woman has the fundamental right to choose to bear a child or to choose and to obtain an abortion, except as specifically limited by this article.

   c) The state shall not deny or interfere with a woman's fundamental right to choose to bear a child or to choose to obtain an abortion, except as specifically permitted by this article.

6) Prohibits the State of California from denying or interfering with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman. (Health & Safety Code Section 123466.)

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7) Provides that a public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause. (Government Code Section 821.6.)

8) Provides that a public employee is not liable for his act or omission, exercising due care, in the execution or enforcement of any law, but is liable for false arrest or false imprisonment. (Government Code Section 820.4.)

9) Allows any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, have been interfered with, or attempted to be interfered with by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, to institute and prosecute in their own name and on their own behalf a civil action for damages, including, but not limited to, damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct. (Civil Code Section 52.1 (c).)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill seeks to further clarify and strengthen California's already strong legal protections against civil liability and criminal prosecution of a pregnant person for the death of their unborn fetus, creates a new civil action allowing individuals whose rights under the Reproductive Privacy Act are violated to seek accountability against "state actors" in the civil courts; and allows a civil action under the Bane Act (Civil Code Section 52.1) to be based upon violation of the bill, including for an exercise of prosecutorial discretion. According to the author:

> AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act prohibits pregnancy criminalization, and creates a private right of action for people whose rights have been violated to seek accountability using civil courts. It would also remove outdated provisions requiring coroners to investigate certain pregnancy losses, and ensure that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

The bill also limits the duties of coroners to be consistent with laws that protect pregnant persons from civil liability and criminal prosecution for the death of their unborn fetus. Because duties of coroners are in the jurisdiction of the Assembly Committee on Health, this analysis will not focus on those issues.

Existing criminal homicide statutes prohibit prosecution of a pregnant person for the death of their unborn fetus. While California's murder statute, Penal Code Section 187, specifically applies to the unlawful killing of a fetus with malice aforethought, by its own terms, it is inapplicable "when the act is solicited, aided, abetted, or consented to by the mother of the fetus." (Penal Code Section 187 (b)(3).) While the Legislature broadened the scope of section 187 to include the unlawful killing of a fetus in specific response to the California Supreme Court's decision in *Keeler v. Superior Court* (1970) 2 Cal.3d 619, the revised wording was intended to situations where a third party intended to cause the death of a fetus. In *Keeler*, the defendant was charged with murder after he attacked his pregnant ex-wife, intentionally causing the death of her fetus. The *Keeler* Court held that the then-existing wording of Section 187, defining murder as the unlawful "killing of a 'human being," did not encompass the killing of a

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fetus. In amending Section 187 in response to *Keeler*, the Legislature intended to criminalize only third-party violence against pregnant persons resulting in fetal death. There is no evidence of legislative intent to extend criminal liability to the mother of the unborn fetus.

Nevertheless, there apparently is confusion among some in law enforcement during the fifty-two years since *Keeler*. On January 6, 2022, Attorney General Rob Bonta issued a Legal Alert (OAG-2021-01) to all California District Attorneys, Police Chiefs, and Sheriffs, regarding "Penal Code 187 and 'the unlawful killing of . . .a fetus'." The alert informed law enforcement of the following:

> The Attorney General has construed Penal Code section 187 as it relates to the actions or inactions of a person carrying a fetus that are alleged to have caused the death of that fetus. The Attorney General's construction is contained in court documents filed in multiple cases, including the attached amicus brief filed in *In re Perez*, Case No. 21W-0033A, Kings Co. Sup. Court (June 25, 2021).

In *Perez,* the defendant experienced a stillbirth at 37 weeks gestation attributed to her methamphetamine use. She was charged with murder and pled guilty to the less serious crime of manslaughter, according to transcripts of her plea, "to avoid the possibility of getting the life sentence on the murder case." However, she could not have been convicted of (and should therefore should not have been charged with) murder pursuant to *Keeler*, given that the fetus was never alive; and there was no factual basis for her plea to manslaughter, given that the killing of a fetus does not constitute manslaughter (*People v. Dennis* (1998) 17 Cal.4th 468, 506). In an amicus brief supporting the release of Perez from prison after **11 years of incarceration**, the AG wrote, "The Attorney General agrees . . . that the text, purpose, and legislative history of California Penal Code section 187 demonstrate that a woman cannot be prosecuted for murder as a result of her own omissions or actions that might result in pregnancy loss."

> The Legislature's purpose in adding the killing of a fetus to Penal Code section 187 was not to punish women who do not--or cannot, because of addiction or resources- follow best practices for prenatal health. Nor did it intend to punish women who might in desperation seek to end their pregnancies outside normal medical channels. Rather, this addition was a focused response to *Keeler v. Superior Court* (1970) 2 Cal.3d 619, holding that the unlawful "killing of a human being" did not encompass a fetus. (See Assem. Com. on Crim. Procedure's Dig., Assem. Bill No. 816 (1970 Reg. Sess.) (July 15, 1970); Review of Selected 1970 California Legislation, Crimes (1971) 2 Pacific L. J. 275, 362-363 [amendment to section 187 "was enacted in response to a June 1970 decision of the California Supreme Court (Keeler v. Superior Court, 2 Cal.3d 619)").) Keeler was charged with the murder of a fetus after he attacked his pregnant ex-wife, intentionally causing a stillbirth. The court ordered that Keeler's prosecution for murder was barred under Section 187 as it was then written. (*Id.* at pp. 628, 631.)

As the AG also points out in his *Perez* amicus brief, the Legislature has repeatedly declined to extend the state's penal laws to encompass punishment of a pregnant woman who experiences a pregnancy loss. (See Sen. Bill No. 1465 (1989-1990 Reg. Sess.) [proposed bill that would have expanded manslaughter to include substance abuse during pregnancy]; Assem. Bill No. 650 (1990-199 1 Reg. Sess.) [proposed bill that would have made substance abuse during pregnancy a misdemeanor].) But under current law and its virtually complete liability shield for the exercise of prosecutorial discretion under Government Code Section 821.6, Perez would have no ability

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to sue those responsible for unlawfully imprisoning her for 11 years, despite the clearly invalidity of her prosecution and conviction. Her only remedy would be to submit a claim to the state for compensation pursuant to the state fund for erroneously convicted persons. (See Penal Code Sections 4900 *et seq.*) Pursuant to a 2016 amendment, the law provides a flat compensation rate of $140 per day for each day of incarceration served, including pre-conviction time spent in custody. Obviously, this does not take into account a person's individual damages that could include loss of income, loss of parenting rights, loss of reputation, and personal injuries suffered during incarceration.

Existing state law prohibits a civil cause of action for prenatal torts. A prenatal tort is a tort (a civil cause of action for damages based upon a wrongful act that causes injury) involving an unborn child. Prenatal tort causes of action include personal injury, wrongful birth, wrongful life, and wrongful pregnancy. But at common law, they do not include wrongful death or wrongful injury. Any right to recovery or cause of action belonged only to the mother because "the unborn child was a part of the mother at the time of the injury, any damage to it which was not too remote to be recovered for at all was recoverable by her." (*Dietrich v. Inhabitants of Northampton* (1884) 138 Mass. 14, 17.)

While some states have repudiated the reasoning of *Dietrich* and authorized civil actions for prenatal injuries caused by tortious conduct that occurs prior to birth, California law remains consistent with the theory expressed in *Dietrich.* Under California law, a fetus or embryo not born alive never attains the status of a "person;" and only a "person" can maintain a legal action or be the subject of a wrongful death claim. Thus, whether the alleged tortfeasor is a pregnant person or a third party, a civil cause of action cannot arise under existing California law for injury or death to a fetus if the fetus is never alive outside of the womb. (See *Hegyes v. Unjian Enterprises, Inc.* (1991) 234 CA3d 1103, 1113 [a negligent motorist was found not legally liable to a child conceived after collision occurred].)

Other states are adopting increasingly aggressive measures to limit abortions. Following the appointment of several Supreme Court justices by former President Donald Trump, dozens of states have enacted legislation in an effort to test the limits, or outright overturn, the federally protected right to an abortion granted in the landmark ruling of *Roe v. Wade* (1973) 410 US 113. One of the first states to restrict abortion access was Mississippi, which enacted a ban on abortion after the fifteenth week of pregnancy. The Mississippi law authorizes the state's Attorney General, as well as the Mississippi State Department of Health or the Mississippi State Board of Medical Licensure, to impose professional sanctions, including fines and a loss of licensure, on any physician who performs an abortion after 15 weeks. (MS Code Section 41-41-191.) The constitutionality of that statute is currently under review by the United States Supreme Court, which is expected to rule in the matter of *Dobbs v. Jackson Women's Health Organization* (No. 19-1392) later in 2022.

Although several states have opted to follow Mississippi's lead and enact similar laws, in 2021, the State of Texas adopted a unique and far more menacing approach to restricting abortion access. Rather than directing state regulators or prosecutors to impose criminal or professional sanctions on persons receiving or performing an abortion, the Texas law permits the filing of a civil lawsuit against any person who performs an abortion or "aids or abets" a person receiving an abortion after a "fetal heartbeat" has been detected. (Texas Health and Safety Code Section 171.208.) As of March 2022, more than one dozen other states have moved to introduce their own versions of the Texas law.

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This bill. The bill has are two main provisions that are in the jurisdiction of this Committee. First, it reiterates, and arguably strengthens, the protections in existing state law that prohibit civil or criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. Second it creates a new private right of action for violations of rights protected by the Reproductive Privacy Act.

Prohibition on civil and criminal liability for the acts of a pregnant person in relation to their pregnancy outcomes. In Section 7, the bill in print provides the following protection from liability to a pregnant person relative to their pregnancy outcomes:

> (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.

(The bill also specifies that a person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights.)

Unintended Impact on Child Welfare Laws - Subdivision (a) of Section 7 is arguably overbroad in at least two ways. First, it appears to immunize a pregnant person from not only all civil liability and criminal penalty for their pregnancy outcomes (consistent with existing law), but also from being "otherwise deprived of their rights" for any of their actions with respect to their pregnancy. This is not consistent with current law, given that child welfare laws allow consideration of a parent's dangerous acts during pregnancy because those acts could affect the welfare of a child who is born after the pregnancy, or other children who are in the person's household. Thus, a pregnant person's actions during pregnancy *could* ultimately affect their parenting rights and result in the deprivation of those rights. For example, reunification services are not required to be provided to a parent with a history of extensive, abusive, and chronic use of drugs or alcohol who has resisted prior court-ordered treatment for this problem during a three-year period immediately prior to the filing of the petition that brings a child to the court's attention. (Welfare & Institutions Code Section 361.5 (b)(13).) Likewise, drug use by a caretaker can be considered in evaluating the welfare of other children in the parent's custody or care. All States, the District of Columbia, Guam, and the U.S. Virgin Islands have provisions within their child protection statutes, regulations, or policies that address the issue of substance use by parents. (Child Welfare Information Gateway. (2020). *Parental substance use as child abuse.* Washington, DC: U.S. Department of Health and Human Services, Children's Bureau, available at https://www.childwelfare.gov/pubPDFs/parentalsubstanceuse.pdf.)

Given that existing law allows a pregnant person's actions during pregnancy to be considered in a manner that could impact their parenting rights, the grant of immunity in Section 7 of the bill in print arguably is overly broad. However, it should be pointed out that the bill, even as it is now in print, is not so broad that it would prevent CPS or law enforcement investigations of a child's death. The bill provides that "*a person* shall not be subject to civil or criminal liability or penalty . . .based on *their actions or omissions* with respect to their pregnancy or actual, potential, or alleged pregnancy outcome[.]" Therefore, the facts of a child's death could be investigated (whether it was born alive, when and how it died, etc.) but depending on the outcome of that investigation (whether the death was related to a pregnancy-related cause), further criminal investigation of the parent may be prohibited. In response to a question asked by Americans

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United for Life, "If a baby is found in a dumpster can law enforcement investigate the child's death?" the answer is yes.

In order to clarify that the immunity provided by the bill only extends to the deprivation of rights related to pregnancy, the author proposes the following amendment on Page 7, at line 7: insert the words "***under this article***" after the word "rights".

"Perinatal Death" - Second, the "perinatal death" language could lead to an unintended and undesirable conclusion. As currently in print, it may not be sufficiently clear that "perinatal death" is intended to be the consequence of a pregnancy complication. Thus, the bill could be interpreted to immunize a pregnant person from all criminal penalties for all pregnancy outcomes, including the death of a newborn for any reason during the "perinatal" period after birth, including a cause of death which is not attributable to pregnancy complications, which clearly is not the author's intent.

While the bill does not define "perinatal," the term is generally used to describe the period from approximately past 22 (or 28) completed weeks of pregnancy up to 7 completed days of life. (L.S.Bakketeig, P.Bergsjø, "Perinatal Epidemiology." International Encyclopedia of Public Health (2008), p. 45.) Welfare & Institutions Code Section 13134.5(b) defines perinatal as "the period from the establishment of pregnancy to one month following delivery."

In order to clarify that the bill's immunity provision is only intended to apply to a perinatal death after a live birth when the cause of death is directly attributable to pregnancy, the author proposes the following clarifying amendment on Page 7, at line 10: insert "***due to a pregnancy related cause***" at the end of the sentence. Reflecting both of the above-proposed amendments, the entire subdivision would read as follows:

> **123467.** (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights ***under this article***, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death ***due to a pregnancy-related cause***.

A new private right of action for violation of rights protected by the Reproductive Privacy Act. In Section 9, the bill in print authorizes a civil action against "an offending state actor" for violating rights protected under the Reproductive Privacy Act and attempts to establish grounds requiring a federal court to exercise its supplemental jurisdiction.

> 123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court. A state claim brought in federal district court shall be a supplemental claim to a federal claim.

The language of Section 9 of the bill as it is now in print raises several issues and potential problems.

The bill in print appears to inappropriately dictate the parameters of federal court jurisdiction. The jurisdiction of federal courts is governed exclusively by federal law, primarily the Federal Rules of Civil Procedure. State law cannot supersede federal law to grant jurisdiction over state claims to a federal court. In general, U.S. district courts can exercise subject matter jurisdiction

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over a case when either a claim is pled that presents a federal question, or complete diversity exists between the parties and meets a minimum damages threshold. Supplemental jurisdiction over state law claims is just that: a supplement to the claim over which the district court has original jurisdiction, in instances where the state law claims are so closely related to the federal claim that the claims form a part of the same case or controversy. Supplemental jurisdiction is meant to ensure efficient use of judicial resources and to prevent inconsistent outcomes in state and federal cases arising from the same set of facts. These are all procedural considerations that are not raised and cannot be mandated by this bill.

Second, Section 9 provides few remedies to plaintiffs (other than attorney's fees and costs) and fails to address the governmental immunities in existing law that would prohibit most civil actions brought pursuant to the section. While neither the "conduct or regulation" nor the specific "state actor" is specified in the bill, the intent of the bill—as expressed in the bill's intent language set forth in Section 1—is focused on the unlawful criminal prosecution of pregnant women for their pregnancy outcomes. However, a new private right of action would have virtually no chance of success under the bill in print because of both general and specific immunities for public employees in existing state law, as explained in more detail below.

A civil suit based upon a state actor's violation of a plaintiff's fundamental rights granted by the laws or Constitution of the United States, or by the laws or Constitution of the state of California, such as the right to obtain an abortion, could be brought under existing law. The Tom Bane Civil Rights Act is one of the three major civil rights statutes in state law (along with the Unruh Civil Rights Act and the Ralph Act). The Bane Act makes it unlawful for any person, *whether or not acting under color of law,* to interfere, or attempt to interfere, by threat, intimidation, or coercion, with any other person in the exercise of any rights granted by the laws or Constitution of the United States, or by the laws or Constitution of the state of California. There are two important, and sometimes misunderstand points, to make about the Bane Act. First, the Bane Act is similar to Section 1983 of the federal Civil Rights Act of 1871 in that both permit a person to file a lawsuit against someone who interferes with the exercise of their civil and constitutional rights; indeed lawsuits against public employees, including peace officers, and the entities that employ them, often combine a Section 1983 claim and a Bane Act claim. However, there is also a significant difference: while a Section 1983 lawsuit must be filed against someone "acting under the color of law" (under the apparent authority of government), the Bane Act makes it unlawful for *any person* to interfere with the rights of another "whether or not acting under color of law." While this bill is targeted at "state actors," who presumably would be acting under color of law, the Bane Act is not limited to government actors. (*See e.g. Jones v. Kmart Corp.* (1998), 17 Cal. 4th 329 [ultimately finding Kmart not liable but not questioning that it could be a defendant in a Bane Act action].)

Second, the Bane Act is sometimes referred to as a "hate crime" statute, largely due to examples cited in support of the bill when it was enacted in 1987. However, unlike the Unruh Act and the Ralph Act, there is no reference in the Bane Act to "protected characteristics" that are typically required to make something a hate crime. In sum, one does not need to be a member of a protected group to bring an action under the Bane Act, not does the act of interference need to be based on the targeted person's protected characteristics. Originally, some courts held that the Bane Act required discriminatory animus on the basis of a protected characteristic, but in 2004, the California Supreme Court made clear that it was not the case, as the plain language of the statute, unlike the Unruh and Ralph Acts, does not mention any protected characteristics. (*See Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820, 841-843 ("*Venegas I*") [overturning

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prior decisions to the extent that they assumed a Bane Act action needed to be based on animus toward a protected characteristic].) In sum, the Bane Act is a broad and potentially powerful civil rights statute that allows *any* person to bring a lawsuit against *any* other *person* (not just a person acting under color of law) who interferes with *any* legal or Constitutional right by means of threats, intimidation, or coercion, or who attempts to interfere with those rights by those means.

The Bane Act and sovereign (governmental) immunity. California's Government Claims Act (formerly known as the "Tort Claims Act") codifies the concept of "sovereign immunity," which essentially shields government from civil lawsuits, except under very limited circumstances. Rooted in the ancient principle that no one can drag the King into court – it was the "King's Court," after all – the concept morphed into the idea that even "non-monarchical" governments, and government employees acting within the scope of their duties, should enjoy at least a "qualified immunity" from civil suits. California's Government Claims Act starts with the broad claim that "a public entity is not liable for an injury" caused by the entity, *except* as otherwise provided by another statute. In short, we start with the assumption that the government is immune from liability *unless* the Legislature enacts a statute providing otherwise. Despite this broad assertion of immunity, the Legislature has used its power to enact exceptions over the years. Most significant, Government Code Section 815.2 (a) provides that a public entity may be liable for injuries caused by an act or omission of its employees acting within the scope of employment, if the employee's act would subject the employee to liability. However, even where existing law permits an action against a public entity, the Government Claims Act still includes a "presentation" requirement for most causes of action. Although there are important exceptions, as a general rule a person wishing to sue a government entity or government employee must first "present" a claim to the entity and, in many cases, exhaust all administrative remedies before bringing an action in court. (Government Code Section 910 *et seq.*) And even then, specific laws that immunize certain actions (such as a prosecutor's discretion whether to initiate criminal charges – set forth on Government Code Section 821.6, discussed in more detail below) may preclude the success of a civil action brought under the Bane Act. Therefore, government immunity has been the major stumbling block to persons seeking justice when their rights are violated, sometimes violently and fatally, such as by law enforcement officers.

Last year's SB 2 (Bradford) Chap. 409, Stats. 2021, amended the Bane Act to expressly provide that actions brought under its provisions are not subject to the government immunity provisions in Sections 821.6, 844.6, and 845.6 of the Government Code when a civil cause of action is "brought against any peace officer or custodial officer". These sections of the Government Claims Act grant immunity to public employees for injuries caused by instituting or prosecuting a judicial or administrative proceeding, even if the acts are malicious and without probable cause; to public entities for injuries caused to prisoners; to a public employee or a public entity for failure to provide medical care to a person in their custody. In addition, SB 2 specified that the provisions of the Government Claims Act that require public entities to indemnify and defend public employees for claims brought against the employee individually, apply to actions brought against public employees under the Bane Act. It should be pointed out that SB 2 did not affect the very broad immunity under Government Code Section 821.6 that applies to prosecutors and their exercise of prosecutorial discretion.

Prosecutorial Immunity. Government Code Section 821.6 states that, "A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without probable cause." This statute has been interpreted to offer extremely broad immunity to prosecutors and their

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discretionary acts, including whether to initiate criminal charges. In *Sullivan v. County of Los Angeles* (1974) 12 Cal. 3d 710, the California Supreme Court interpreted section 821.6 as providing immunity of public employees against malicious prosecution claims and noted that "no statute imposes liability on public entities for malicious prosecution." as "confining its reach to malicious prosecution actions." (*Id.* at p. 720.)

This is similar to the immunity that prosecutors have under federal law that protects them from liability for exercising their prosecutorial discretion, even when it violates federal civil rights. "State prosecutors are absolutely immune from § 1983 actions when performing functions 'intimately associated with the judicial phase of the criminal process,' [Citation omitted] or, phrased differently, "when performing the traditional functions of an advocate." (*Kalina v. Fletcher* (1997) 522 U.S. 118, 131.) "Prosecutors are entitled to qualified immunity, rather than absolute immunity, when they perform administrative functions, or 'investigative functions normally performed by a detective or police officer.'" (*Genzler v. Longanbach* (9th Cir. 2005) 410 F.3d 630, 636 [quoting *Kalina*, 522 U.S. at 126].) The rationale is that prosecutors must be able to pursue criminals with courage and independence, and without worrying about the threat of lawsuits. "The common-law immunity of a prosecutor is based upon . . . concern that harassment by unfounded litigation would cause a deflection of the prosecutor's energies from his public duties, and the possibility that he would shade his decisions instead of exercising the independence of judgment required by his public trust." (*Imbler v. Pachtman* (1976) 424 U.S. 409, 422-423.)

This broad prosecutorial immunity has given inadequate recourse to plaintiffs harmed (including by being imprisoned for decades) by unconscionable prosecutorial misconduct, including fabricating evidence and negotiating a plea deal for which there clearly is no factual basis (such as a manslaughter conviction based upon the death of an unborn fetus). In the *Perez* case, discussed above, it means that she has no recourse after spending 11 years in prison, locked up for a crime that does not exist, other than pursuing an inadequate amount of compensation from the state fund for erroneously convicted persons.

Government Code Section 821.6 has never been amended or modified since it was enacted in 1963, despite the fact that appellate courts have confoundingly managed to expand its meaning beyond the parameters of *Sullivan.* (See, e.g., *Kayfetz v. State* (1984) 156 Cal. App. 3d 491, 497 ["section 821.6 is not limited to suits for damages for malicious prosecution, although that is a principal use of the statute"]; *Amylou R. v. Cty. of Riverside* (1994) 28 Cal. App. 4th 1205, 1211 [explaining that "the section clearly extends to proceedings which were not initiated out of a malicious intent, and thus would not constitute malicious prosecution"].) But that does not mean that Section 821.6 can't or shouldn't be amended or modified by the Legislature, just as the immunity for peace officers and custodial officers was modified last year by SB 2. (See also *Buckley v. Fitzsimmons* (1993) 509 U.S. 259, 268 [observing that because Congress could have abrogated prosecutorial immunity in Section 1983, but given that it did not do so explicitly and given the longevity of the concept, courts have assumed that it did intend to do so by implication].)

Arguably there is no public policy rationale for giving prosecutors immunity for acts that clearly are outside the normal scope of prosecutorial discretion, such as fabricating evidence. In fact, the U.S. Supreme Court held as much when it declined to apply absolute immunity to a prosecutor who fabricated evidence of a defendant's guilt on the basis that evidence gathering (and fabrication) is not a prosecutorial function. "When a prosecutor performs the investigative

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functions normally performed by a detective or police officer, it is 'neither appropriate nor justifiable that, for the same act, immunity should protect the one and not the other.'" (*Buckley, supra,* at pp. 273-274.)

Likewise, there is no public policy rationale for granting absolute immunity to prosecutors for a decision to prosecute a pregnant woman for a pregnancy outcome in direct violation of a legislative directive not to do so. Although filing criminal charges is an exercise of prosecutorial discretion, where the law clearly prohibits criminal charges – as existing law does now (and the Reproductive Privacy Act would do in an even more clear and adamant way under the bill) – there is no discretion to file charges. Thus, especially given the extremely narrow scope of the liability under the bill (only for decisions to pregnant women for the loss of their pregnancy when the law prohibiting such prosecutions has clearly prohibited such prosecutions for more than 50 years), modifying the immunity protection offered by Government Code Section 821.6 seems justified and appropriate.

Author's amendments. In order to address the issues about Section 9 of the bill discussed above, the author proposes the following clarifying amendments:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a ~~federal district court or~~ state superior court. ~~A state claim brought in federal district court shall be a supplemental claim to a federal claim.~~

(b) ***Whoever denies the right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, the following:***

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000) to be awarded to the person denied the right protected by this article. An action shall be commenced within three years of the alleged practice violation of this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(d)(1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, shall apply to any

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cause of action brought under this section against an employee or former employee of a public entity.

The damages and other remedies proposed to be added to the bill are identical to those provided in Section 52 of the Civil Code for violations of the Unruh Civil Rights Act (Civil Code Section 51), the Civil Rights Act (Civil Code Section 51.5), and the Gender Tax Repeal Act of 1995 (Civil Code Section 51.6). It seems appropriate that the bill would incorporate those remedies, given that it also seeks to protect and provide remedies for violations of personal rights.

A plaintiff would also be specifically authorized to bring an action under the Bane Act for violations of the Reproductive Privacy Act. And while a plaintiff could do so now, the bill would provide new tools to a future plaintiff in two forms. First, the amendments propose to clarify that the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome would constitute "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code. It is obvious that a criminal investigation or prosecution, or threat thereof—with its potential impacts on employment, parental rights, social status and reputation, and loss of freedom by imprisonment—is threatening and intimidating. The prospect of criminal punishment can also be highly coercive, as demonstrated in the *Perez* case, where the threat of lifetime punishment was used to extract an admission of guilt to a lesser criminal charge for which there was no factual basis. The proposed amendments would merely clarify the point. The proposed amendments also clarify that if a public employee were sued under the bill, their employer would be obligated to indemnify and defend the employee. The same language was enacted relative to the Bane Act in last year's SB 2.

Finally, the proposed amendments remove an offensive and obsolete term, "crime against nature," from Section 27491 of the Government Code.

ARGUMENTS IN SUPPORT: The co-sponsors--ACLU California Action, Black Women for Wellness, California Latinas for Reproductive Justice, If/When/How: Lawyering for Reproductive Justice, NARAL Pro-Choice California, and Planned Parenthood Affiliates of California--all write in support of the bill that it "protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss." They observe that although it "is not a crime to have an abortion, miscarriage, or experience pregnancy loss. .. [and] despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses." They observe that, "AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss." Black Women for Wellness Action Project point out that, "This bill is also particularly important to our organization our community, as we know that Black mommas and families are particularly and likely to be targeted." The California Women's Law Center observes that, "AB 2223 will protect reproductive freedom in California by clearly delineating that ending or losing a pregnancy is not a crime."

ARGUMENTS IN OPPOSITION: Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and

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postpartum and neonatal periods." . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide." Virtually all of the groups in opposition express strong opposition to the bill's current language regarding "perinatal death" and many conclude that it could decriminalize the killing of a newborn. Americans United for Life asks, "If a baby is found in a dumpster can law enforcement investigate the child's death? Probably not under AB 2223." California Family council observes, "California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. Mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location." The Fredrick Douglass Foundation of California writes the following in opposition to the bill: "AB 2223 continues the practice of eugenics on steroids. It targets the very population it pretends to protect, women of color."

REGISTERED SUPPORT / OPPOSITION:

Support

Access Reproductive Justice
ACLU California Action (co-sponsor)
Black Women for Wellness Action Project (co-sponsor)
California Coalition for Women Prisoners
California for Safety and Justice
California Latinas for Reproductive Justice (co-sponsor)
California Nurse Midwives Association (CNMA)
California Women's Law Center
Californians United for A Responsible Budget
Citizens for Choice
Courage California
Disability Rights California
Ella Baker Center for Human Rights
If/when/how: Lawyering for Reproductive Justice (co-sponsor)
Initiate Justice
Naral Pro-choice California (co-sponsor)
National Center for Youth Law
National Health Law Program
Planned Parenthood Affiliates of California (co-sponsor)
Smart Justice California
Survived & Punished
Urge: Unite for Reproductive & Gender Equity
Women's Foundation California

Opposition

Americans United for Life
California Capitol Connection
California Family Council
Calvary Chapel of Placerville
Capitol Resource Institute

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Concerned Women for America
Frederick Douglass Foundation of California
Liberty Baptist Church of Norwalk, CA
National Center for Law & Policy
Pacific Justice Institute
Real Impact
Right to Life League of Southern California
Right to Life of Kern County
The Salt & Light Council
Traditional Values for Next Generations
Numerous individuals

Analysis Prepared by: Alison Merrilees / JUD. / (916) 319-2334

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ERIC GARCETTI
MAYOR

June 22, 2022

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

The Honorable Toni Atkins
President Pro Tem, California State Senate
1021 O Street, Suite 8518
Sacramento, CA 95814

The Honorable Anthony Rendon
Speaker, California State Assembly
1021 O Street, Suite 8330
Sacramento, CA 95814

RE: Legislation Supporting Reproductive Justice in California
SUPPORT from the City of Los Angeles

Dear Governor Newsom, Pro Tem Atkins, and Speaker Rendon:

On behalf of the City of Los Angeles, I write to express the City's strong support of the California Legislative Women's Caucus' 2022 Reproductive Justice Package, which strengthens and expands access to abortion services and ensures that California is a national beacon for reproductive freedom, including support for SCA 10 the proposed constitutional amendment to explicitly protect abortion and contraception in California's constitution.

With the U.S. Supreme Court poised to overturn the long-standing legal protections of abortion services under *Roe v. Wade*, it is imperative that California take the lead, live up to its proclamation as a "Reproductive Freedom State," and be ready to serve anyone who seeks abortion services. Should the Court overturn *Roe* or allow a pre-viability ban to remain in place, people in over half of the states in the country – over

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36 million women and other people who may become pregnant - will lose access to abortion care.

According to a Guttmacher Institute report, 2021 has been the worst year for abortion rights since *Roe v. Wade* was decided in 1973. More than 106 abortion restrictions have been enacted in 19 states, including 12 bans on abortion. Another report by the Guttmacher Institute shows that if there was a total ban on abortion in the 26 states that are expected to ban abortion should Roe fall, the number of out-of-state women of reproductive age who would find their next nearest clinic in California would increase from a previous 46,000 to 1.4 million, with 1.3 million of these people residing in Arizona.

I am encouraged to see that the joint legislative budget agreement builds upon the Governor's May Revision proposals to increase access to reproductive healthcare services, improve clinical infrastructure, and expand the workforce in reproductive healthcare services. I urge that these investments will be retained in the final budget. In addition to these investments, I urge the Legislature to adopt the California Legislative Women's Caucus' Reproductive Justice Package to increase access to safe, equitable, and affordable abortion care.

The City of Los Angeles applauds the work of the California Future of Abortion Council and the Legislative Women's Caucus in advancing these key policy proposals to ensure California's leadership role on this important issue. Thank you for your consideration.

Sincerely,

ERIC GARCETTI
Mayor

CC: Honorable Members, California Legislative Women's Caucus

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Attachment: List of State Legislation

SCA 10 (Atkins) - Reproductive Freedom
AB 1666 (Bauer-Kahan) - Abortion: Civil Actions
AB 1918 (Petrie-Norris) - California Reproductive Health Service Corps
AB 2091 (Bonta) - Reproductive Health And Privacy
AB 2134 (Weber) - Reproductive Health Care
AB 2205 (Carrillo) - California Health Benefit Exchange: Abortion Services Coverage Reporting
AB 2223 (Wicks) - Reproductive Health
AB 2320 (Garcia) - Reproductive Health Care Pilot Program
AB 2586 (Garcia) - Reproductive And Sexual Health Working Group
AB 2626 (Calderon) - Medical Board Of California: Licensee Discipline: Abortion
SB 245 (Gonzalez) - Health Care Coverage: Abortion Services: Cost-Sharing
SB 1142 (Caballero/Skinner) - Abortion Services
SB 1245 (Kamlager) - Los Angeles County Abortion Access Safe Haven Pilot Program
SB 1375 (Atkins) - Nursing: Nurse Practitioners

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June 20, 2022

The Honorable Senator Richard Pan, M.D.
Chair, Senate Health Committee
1021 O Street, Room 3310
Sacramento, CA 95814

Dear Chair Pan,

On behalf of the more than 50,000 physician and medical student members of the California Medical Association (CMA), we are proud to support AB 2223 (Wicks). CMA applauds this effort to remove barriers to reproductive health access.

By decriminalizing abortion and other pregnancy loss that occurs outside a health care setting, AB 2223 protects individuals who were pregnant from prosecution if they do not carry the pregnancy to term. Additionally, it takes an additional step by adding penalties into the law for individuals who attempt to violate this policy or deny anyone the right to privacy over their reproductive health decisions.

CMA policy supports ensuring that all Californians have access to safe and professional abortion services. AB 2223 ensures that all individuals can safely access abortion services without fear of criminal reprisal. Moreover, it ensures that decisions about reproductive health are protected by the right to privacy, and that there are consequences for those who would seek to violate that right.

Eliminating obstacles to reproductive health care for all individuals, regardless of income level, geography, or other factors is critical to achieving health equity in California. Ensuring that individuals do not face public intrusion into, or criminal sanction for, reproductive health choices furthers this goal.

For these reasons, CMA encourages your support for AB 2223 (Wicks). Please do not hesitate to contact me with any questions (707) 310-4536.

Sincerely,

Cyndi Hillery
Legislative Advocate, Government Relations

cc: The Honorable Assemblymember Buffy Wicks
The Honorable Senator Melissa Melendez
Melanie Moreno, Staff Director, Senate Health Committee
Joe Parra, Consultant, Senate Republican Policy and Fiscal Office
Tim Conaghan, Consultant, Senate Republican Policy and Fiscal Office

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ACCESS REPRODUCTIVE JUSTICE

P.O. BOX 3609
Oakland, CA 94609
510-923-0739
ACCESSRJ.ORG

June 10, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

ACCESS REPRODUCTIVE JUSTICE, strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

As California's only abortion fund, we stand behind the Reproductive Justice movement. SisterSong defines Reproductive Justice as "The human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities."
Reproductive Justice demands that we work at the intersections of racial, economic, and gender justice and we strive to use this lens in all our advocacy and outreach.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. These cases, as well as the leaked Supreme Court draft opinion overturning Roe, are reminders that we must continue to fight to ensure that all Californians have access to reproductive justice.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible. Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

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ACCESS Reproductive Justice, often serves as an initial point of contact and primary support system for patients navigating myriad barriers in reproductive healthcare access. From managing basic logistics, what is and is not covered, to debunking misinformation, facing harassment and intimidation at clinics—as well as state-prescribed hurdles like mandatory waiting periods, parental consent, high co pays and cost, or judicial bypass provisions. Trained, compassionate advocates operate our toll-free bilingual hotline. We play a crucial advocacy role in addressing those most impacted by restrictive laws, centering the LGBTQ+ community, low-income, young, and communities of color, among others.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.
It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.
And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, ACCESS REPRODUCTIVE JUSTICE supports AB 2223.

Respectfully Submitted,

Jessica Pinckney

Jessica Pinckney
Executive Director
ACCESS REPRODUCTIVE JUSTICE

ACCESS REPRODUCTIVE JUSTICE removes barriers to sexual and reproductive health care and builds the power of Californians to demand health, justice, and dignity. At ACCESS RJ, we are building towards a future where all people in California have the freedom and resources necessary to make empowered and dignified decisions about their sexual and reproductive health, including the decision to have an abortion, without shame or stigma and regardless of their race, religion, documentation or economic status. A future where Black, Indigenous and people of color (BIPOC) and queer communities trust themselves; are trusted; and have the social, political, and economic power to sustain their communities and to build the families they desire, chosen and biological.

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Planned Parenthood
Act. No matter what.

Planned Parenthood Affiliates of California

June 7, 2022

The Honorable Thomas Umberg
Chair, Senate Judiciary Committee
1021 O Street Room 3240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Senator Umberg,

Planned Parenthood Affiliates of California, on behalf of the 7 Planned Parenthood affiliates in the state who provide health care and sexual health education in every county, is a proud to support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss. As a leading provider of sexual and reproductive health care, Planned Parenthood health centers treat approximately 1,000 patients a year suffering from pregnancy loss. The subsequent fear of their pregnancy outcome being criminalized makes this reality even more difficult to face.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also

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ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons, Planned Parenthood Affiliates of California is proud to support AB 2223 and appreciate your leadership on this issue.

Sincerely,

Molly Robson

Molly Robson
Legislative Director, Planned Parenthood Affiliates of California

CC: The Honorable Buffy Wicks
Members and Committee Staff, Senate Judiciary Committee

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May 15, 2022

The Honorable Chris Holden
Chair, Assembly Appropriations Committee
1021 O Street, Suite 8220
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

As Amended: 4/6/22

Dear Assemblymember Wicks,

Stronger Women United strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

The most recent research concerning domestic violence, pregnancy, and reproductive health care. Domestic violence kills more pregnant women each year than any other cause. Nearly 20% of women experience violence during pregnancy, with pregnant adolescents and women with unintended pregnancies at an increased risk.

A study shows unhoused families are the fastest-growing segment of homeless people. In other words, making up about 40 percent of the homeless population on any given night.

Subsequently, it has also been studied those homeless women are almost five times more likely to become pregnant than housed women.

Stronger Women United is a collective of unhoused and previously unhoused women and allies drawing on our lived experiences with housing displacement to fight for housing justice as a form of gender justice. We know that affordable housing gives women a viable strategy to exit abusive and violent homes and systems, and this gives us power. It enables us to say "no" to the abuse and oppression that come with being unhoused, and to reclaim our bodies and lives as our own. We know that access to safe, permanent, affordable housing is critical step in our movement for dignity, equality, and freedom. Together, we aim to grow our movement and ensure that everyone has access to a safe, affordable home. While we know housing helps us heal, poverty is a reality access to safe nondiscriminatory women's services is critical.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or

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self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Stronger Women United supports AB 2223.

Sincerely,

Callie Rutter

Callie Rutter
Founding Member
Stronger Women United

CC: Chair, Members and Committee Staff, Assembly Appropriations Committee

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Voices for Progress

May 3, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Voices for Progress strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Voices for Progress galvanizes the advocacy of business leaders, entrepreneurs, philanthropists, and other prominent individuals who unite to champion a healthy climate and environment, strengthen our democracy, and ensure economic and social justice for all.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends,

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Western Region Office | 312 Arizona Avenue | Santa Monica, CA 90401
California State Office | 1225 8th Street, Suite 375 | Sacramento, CA 95814
Voices for Progress is a project of The Advocacy Fund. Voices for Progress Education Fund is a project of Tides Center.
www.voicesforprogress.org

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Voices for Progress

community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Voices for Progress supports AB 2223.

Sincerely,

Evan Minton

Evan Minton
California State Policy & Programmatic Manager

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American College of Obstetricians and Gynecologists

District IX

April 4, 2022

The Honorable Mark Stone, Chair
Assembly Committee on Judiciary
1020 N Street, Room 104
Sacramento, CA 95814

RE: AB 2223 (Wicks) - SUPPORT

Dear Chairman Stone:

The American College of Obstetricians and Gynecologists District IX (ACOG) is pleased to **support** AB 2223 (Wicks), which will protect individuals from being investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

ACOG opposes the prosecution of pregnant individuals for conduct alleged to have harmed their fetus, including the criminalization of self-induced abortion. The threat of prosecution may result in negative health outcomes by deterring people from seeking needed care, including care related to complications after abortion. Throughout the United States, individuals have been prosecuted for a variety of actions during pregnancy that allegedly caused harm or risk of harm to fetuses they were carrying. For example, individuals have been arrested and jailed for crimes such as child endangerment, feticide, or homicide for using drugs during pregnancy, attempting suicide or declining to proceed with a recommended cesarean delivery. ACOG has long opposed efforts to criminalize such actions during pregnancy.

In addition, individuals have been prosecuted and sometimes incarcerated for allegedly self-inducing an abortion in the United States. The reasons why people attempt to self-induce an abortion are varied and include barriers to accessing clinic-based care, including cost, distance to the facility, and lack of knowledge of where and how to access care, as well as a preference for self-care.

AB 2223 protects people from criminalization of their pregnancy outcomes and secures their reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss. The bill eliminates provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal

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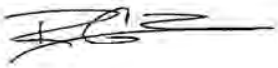
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systems. AB 2223 creates a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons, ACOG is proud to support AB 2223 (Wicks) and ask for your "aye" vote. Thank for your attention.

Sincerely,



Ryan Spencer
Legislative Advocate

CC: The Honorable Buffy Wicks
Members of the Assembly Committee on Judiciary

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ASIAN AMERICANS
ADVANCING
JUSTICE
CALIFORNIA

April 4, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Asian Americans Advancing Justice – California (Advancing Justice – CA)strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Advancing Justice - CA, a partnership of Advancing Justice - Asian Law Caucus and Advancing Justice - Los Angeles, advocates for the civil and human rights of Asian American, Native Hawaiian, and Pacific Islander and other underserved communities to promote a just and equitable society for all through policy.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

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AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Advancing Justice – CA supports AB 2223.

Sincerely,

Faith Lee

Faith Lee
Legislative Director
Asian Americans Advancing Justice – California

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Kieran Flaherty, Associate Vice President & Director

SENATE FLOOR ALERT
AB 2223 (Wicks) – Third Reading

August 18, 2022

To: Members of the California State Senate

RE: Assembly Bill 2223 (Wicks), as amended on June 20, 2022
Position: SUPPORT

The University of California (UC) proudly supports Assembly Bill 2223 by Assemblymember Wicks. UC is deeply concerned about the restricted availability of reproductive healthcare throughout the nation as a result of the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, and this important bill affirms and strengthens protections for people in California from being investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing a pregnancy loss.

UC's six academic health centers and health professional schools are heeding state leaders' calls to ensure that access to reproductive health services, including abortion, is preserved in California and available to all. Each of our academic health centers and our student health centers offer reproductive services, and remain committed to do so. Further, four UC Obstetrics and Gynecology departments have accredited Complex Family Planning fellowship programs located at the Davis, San Francisco, Los Angeles and San Diego campuses, preparing future reproductive healthcare practitioners and leaders.

Many states are now seeking to impose criminal or civil penalties on people who assist others in obtaining an abortion. We cannot allow Californians to be similarly targeted. Fortunately, AB 2223 seeks to ensure that no one in the State of California is investigated, prosecuted, or incarcerated from ending a pregnancy or experiencing a pregnancy loss and that their right to reproductive freedom is protected.

UC Urges a "YES" Vote on AB 2223 (Wicks)

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August 15, 2022

Memo To: Members of the Senate

From: Kathi Harper, Policy Chair

Re: AB 2223 (Wicks) Coroner Inquests – Support

On behalf of the American Association of University Women California (AAUW CA), this letter is to express our support for AB 2223 (Wicks), which eliminates the existing requirement that a coroner hold inquests for deaths related to self-induced or criminal abortion. The measure also deletes the requirement that an unattended fetal death be treated as a death without medical attendance.

AAUW CA is a leading organization advocating equity for women and girls. Our membership includes over 10,000 California women in 119 branches throughout the state – with another 5,000 members at large. Reproductive health care is a key policy priority for AAUW CA.

Existing law gives coroners a duty to investigate certain abortions and pregnancy losses. Women who have just given birth, had an abortion, or experienced a pregnancy loss can be subjected to law enforcement inquiries, triggering harmful investigations and even unlawful prosecutions.

AB 2223 strengthens the Reproductive Privacy Act to clarify the Legislature's intent that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions. Women have the right to make their own decisions about pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.

Further, the bill prohibits using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil

AAUW California Office 915 L Street (Suite C) Box # 418 Sacramento, CA 95814 916-389-0220

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AAUW of California

cause of damages against any person based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. AB 2223 provides a person who suffers a violation of the Reproductive Privacy Act to the right bring a civil action against a person or state entity, and requires a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff.

In California, having an abortion, miscarriage or pregnancy loss does not constitute a crime. Unfortunately, Californians have been charged with homicide offenses for pregnancy losses, driving the necessity for stronger protections for women who have an abortion, or suffer a pregnancy loss. AB 2223 further protects reproductive freedom in California and ensures women have the right to make decisions about their pregnancy.

For these reasons, AAUW strongly supports AB 2223 and requests your "Aye" vote on this measure. If you have any questions or need further information, please do not hesitate to contact our advocate in Sacramento, Kathy Van Osten with MVM Strategy Group at 916-605-9293 or kvanosten@mvmstrategy.com.

Cc: Melanie Moreno, Senate Health Committee
Amanda Mattson, Senate Judiciary Committee
Assemblymember Buffy Wicks

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UNITE FOR REPRODUCTIVE & GENDER EQUITY

Reproductive justice powered by young people in the South and the Midwest.

3/30/2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

URGE: Unite for Reproductive & Gender Equity strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

URGE is a state-driven national organization that builds power and sustains a young people's movement for reproductive justice by centering the leadership of young people of color who are women, queer, trans, nonbinary, and people with low incomes. We envision a liberated world where we can live with justice, love freely, express our gender and sexuality, and define and create families of our choosing.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

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www.URGE.org

UNITE FOR REPRODUCTIVE & GENDER EQUITY

Reproductive justice powered by young people in the South and the Midwest.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons URGE supports AB 2223.

Sincerely,

Cindy Cruz

Cindy Cruz
Western States Field Director
URGE: Unite for Reproductive & Gender Equity

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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www.URGE.org

NEVADA COUNTY citizens for CHOICE

P.O. Box 3525
Grass Valley, CA 95945
www.CitizensforChoice.org

March 30, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Nevada County Citizens for Choice strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Citizens for Choice has promoted reproductive health and justice as a California nonprofit organization since 2001. We sponsor a clinic in Grass Valley operated by our partner Women's Health Specialists; provide health information and education; and engage in California focused advocacy. Consistent with our mission, we believe it is important to prevent criminalization of abortion and pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

Citizens for Choice promotes reproductive justice through education, health care access and advocacy.
We exist to inform and enable choice.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, Nevada County Citizens for Choice supports AB 2223. We thank you for your leadership on this important bill.

Sincerely,

Elaine L. Sierra

Elaine L. Sierra, J.D.
President
info@citizensforchoice.org
Mobile: (530) 648-6816

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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National Center for Youth Law

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Jesse Hahnel

March 30, 2022

The Honorable Buffy Wicks

State Capitol, Room 4240

Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The National Center for Youth Law strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

The National Center for Youth Law (NCYL) is a non-profit organization that works to create a world in which every young person thrives and has a full and fair opportunity to achieve the future they envision for themselves. NCYL has spent decades partnering with health care providers, adolescent medicine experts, guardians, and youth to advocate for equitable access to critical health care, including reproductive health care. Our support for AB 2223 comes from this experience and perspective.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

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info@youthlaw.org | www.youthlaw.org



National Center for Youth Law

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, the National Center for Youth Law supports AB 2223.

Sincerely,

Jesse E Hahnel

Jesse Hahnel, Executive Director

CC: Senator Sydney Kamlager
Members of the Senate Health Committee
Members of the Senate Judiciary Committee

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ACLU CALIFORNIA ACTION

P.O. Box 630
1017 L Street
Sacramento 95814

Tel: (916) 442-1036

March 30, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

Re: AB 2223 – as amended
COSPONSOR

Dear Assemblymember Wicks,

ACLU California Action is pleased to cosponsor AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

ACLU California Action fights for Californians' bodily autonomy and the right to have children, not have children, and parent the children we have with dignity and safety. We believe Californians deserve reproductive justice. This means we work to ensure that every person in our state has equal access to excellent reproductive and sexual health care; schools teach accurate and unbiased health information; racism and socioeconomic status no longer stand in the way of people achieving and maintaining healthy lives; and individual decisions about intimacy and child-bearing are respected, valued, and supported.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of civil or criminal charges has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who also face barriers to safe, culturally competent, and inclusive medical systems.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without fear of being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from interrogation and criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from investigation, prosecution, and incarceration based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, ACLU California Action is a proud cosponsor of AB 2223.

Sincerely,

Kevin G. Baker
Director of Governmental Relations

Ruth Dawson
Legislative Attorney

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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SMART JUSTICE

2443 Fillmore Street
Suite 134
San Francisco, CA 94115
(415) 937-7522
info@smartjusticeca.org

March 29, 2022

The Honorable Buffy Wicks
1021 O St., Ste. 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) – SUPPORT

Dear Assemblymember Wicks:

On behalf of **Smart Justice California**, I write in strong support of your bill AB 2223 to protect reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Smart Justice California educates and emboldens policymakers who support meaningful criminal justice reforms that promote safety, fairness and healthy communities. We are an alliance of philanthropists working hand-in-hand with a broad coalition to foster common sense criminal justice reform through the electoral process, stakeholder engagement and voter education.

In California, it is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law protecting the right to make decisions about pregnancy in our state, Californians have been charged with homicide offenses for pregnancy losses.

Criminally prosecuting a person following pregnancy loss or termination is, simply put, wrong. It is devastating to the individual and her family, and has negative impacts on public health and safety. Fear of prosecution prevents people from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

States hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve these problems by protecting people from criminalization of their pregnancy outcomes. AB 2223 strengthens reproductive rights in the following ways:

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2443 Fillmore Street
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- Protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes, whether they have an abortion or experience a pregnancy loss.

- Eliminates out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes.

- Holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

- Ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, we strongly support AB 2223. If you wish to discuss further, please contact our advocate Natasha Minsker at natasha@smartjusticeca.org.

Respectfully,

Anne R Irwin

Anne Irwin
Founder & Executive Director

ADVISORY BOARD
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March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:

The National Health Law Program strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss. The National Health Law Program is a public interest law firm that protects and expands the health care rights of individuals who have low incomes or are underserved.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience

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adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss. It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom. For all of these reasons, the National Health Law Program supports AB 2223.

Sincerely,



NATIONAL HEALTH LAW PROGRAM

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Fabiola Carrión
Director of Reproductive and Sexual Health
National Health Law Program

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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California Coalition for Women Prisoners
4400 Market Street, Oakland, CA 94608
Phone: (415) 255-7036 x4 Fax: (415) 552-3150
info@womenprisoners.org

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The California Coalition for Women Prisoners (CCWP) strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

CCWP is a social justice organization that challenges the institutional violence imposed on women, transgender people, and communities of color by the prison industrial complex (PIC). The majority of our members are victims of violence, many of whom were prosecuted in contexts of surviving domestic and sexual violence.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

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California Coalition for Women Prisoners
4400 Market Street, Oakland, CA 94608
Phone: (415) 255-7036 x4 Fax: (415) 552-3150
info@womenprisoners.org

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons the California Coalition for Women Prisoners supports AB 2223.

Sincerely,

Legal Advocate
California Coalition for Women Prisoners

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

SURVIVED AND PUNISHED
end the criminalization of domestic and sexual violence survivors
survivedandpunished.org

Survived & Punished
1589 ½ Altivo Way
Los Angeles, CA 90026

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Survived & Punished strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Survived & Punished is a statewide and national organization that advocates for the freedom of criminalized survivors of domestic and sexual violence. The vast majority of people in women's prisons (and many in men's prisons) are survivors of domestic and sexual violence. The incarceration of survivors is so pervasive, researchers have characterized it as an abuse-to-prison pipeline. Domestic and sexual violence often create conditions for both pregnancy and pregnancy loss. For example, the physical consequences of trauma can increase the likelihood of pregnancy loss. Also, the severity and lethality of domestic violence often increases if survivors become pregnant, creating conditions of pregnancy loss outside of their control.

California has not outlawed abortion, miscarriage, or the experience of pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. This unlawful practice creates additional abuse-to-prison pathways for survivors of domestic and sexual violence. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health,

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because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Survived & Punished strongly supports AB 2223.

Sincerely,

Alisa Bierria, Ph.D.
Survived & Punished

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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WOMEN'S FOUNDATION CALIFORNIA

DR. BEATRIZ MARÍA SOLÍS POLICY INSTITUTE

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:

Women's Foundation California (WFC) strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

The WFC is a statewide, publicly supported foundation dedicated to achieving racial, economic, and gender justice by centering the experience and expertise of communities most impacted by systemic injustice. We support this effort to protect reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, the WFC supports AB 2223.

Sincerely,

Marisol Franco, Director of Programs
marisolf@womensfoundca.org

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Californians United for a Responsible Budget
909-975-1095 (c)
www.curbprisonspending.org

March 28, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Californians United for a Responsible Budget/CURB strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons CURB supports AB 2223.

Sincerely,

Amber-Rose Howard

Executive Director
Californians United for a Responsible Budget

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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CALIFORNIANS FOR SAFETY AND JUSTICE
www.Safeandjust.org

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Californians for Safety and Justice strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Californians for Safety and Justice is a nonprofit organization working with Californians from all walks of life to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars. Through policy advocacy, grassroots mobilization, public education, alliances, and support for local best practices, we promote strategies to stop the cycle of crime, reduce reliance on incarceration, and build healthy communities. Our work includes a growing statewide network of over 12,000 crime survivors and an organized constituency among the 8 million Californians living with a past conviction or record and their families.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

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CALIFORNIANS FOR SAFETY AND JUSTICE
www.Safeandjust.org

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons Californians for Safety and Justice supports AB 2223.

Sincerely,

Edward Little
CA Government Affairs Manager
Californians for Safety and Justice
ELittle@safeandjust.org

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Executive Director
Betsy Butler

March 29, 2022

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
State Capitol, Room 104
Sacramento, CA 95814

Re: Assembly Bill 2223 (Wicks) – Support

Dear Assemblymember Stone,

On behalf of the California Women's Law Center, we write in support of AB 2223 which will clarify that the Reproductive Freedom Act affirms people's right to be free from criminal liability based on pregnancy outcomes.

In California, it is not a crime to have an abortion, miscarriage, or to experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting an individual's right to make decisions about their pregnancy, Californians have been charged with homicide offenses for pregnancy loss.

The threat of criminal prosecution harms the health of individuals and the general public because people who fear prosecution based on their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and who are also more likely to be over-surveilled by state agencies. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because of an inability to access care in a formal medical system.

AB 2223 will clarify that the Reproductive Privacy Act affirms individuals' right to be free from criminal penalties based on their pregnancy outcomes, including abortion, miscarriage, or pregnancy loss. It will also hold state actors accountable by creating a private right of action for people whose rights have been violated by the criminalization of their reproductive outcomes, allowing people to seek justice through the courts.

CWLC's mission is to create a more just and equitable society by breaking down barriers and advancing the potential of women and girls through transformative litigation, policy advocacy, and education. AB 2223 will protect reproductive freedom in California by clearly delineating that ending or losing a pregnancy is not a crime.

For these reasons, the California Women's Law Center supports AB 2223.

Sincerely,

Betsy Butler

Betsy Butler
Executive Director

360 North Pacific Coast Highway, Suite 2070 | El Segundo, CA 90245
Phone: 323-951-1041 | Email: cwlc@cwlc.org
www.cwlc.org

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ELLA BAKER CENTER for HUMAN RIGHTS

She led. So can you.

March 29, 2002

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

The Ella Baker Center for Human Rights strongly supports your bill, AB 2223, to protect reproductive rights by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Based in Oakland, the Ella Baker Center for Human Rights works to advance racial and economic justice to ensure dignity and opportunity for people with low income and people of color. The Ella Baker Center believes the criminalization of the people we work to protect for their personal decisions is inhumane.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Frequently, there is no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, LGBTQ people, young people, and others who may self-manage abortions because of lack of access to medical care.

The bill protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, among others, Ella Baker Center for Human Rights supports AB 2223 (Wicks_. For more information about our organization or our position, please contact our policy consultant Glenn Backes at glennbackes@mac.com or (916) 202-2538. Thank you for your leadership on this important issue.

Sincerely,

Emily Harris
Policy Director

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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March 31, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss - Support

Dear Assemblymember Wicks,

The California Nurse Midwives Association strongly supports AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

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It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons the California Nurse Midwives Association supports AB 2223.

Sincerely,

Paris Maloof-Bury
President, California Nurse Midwives Association

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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BLACK WOMEN FOR WELLNESS ACTION PROJECT

March 30, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: SUPPORT — AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:
As proud co-sponsors of **AB 2223 (Wicks), decriminalization of Abortion and Pregnancy Loss,** Black Women for Wellness Action Project (BWWAP) writes to express our strong support for this bill! AB 2223 protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

BWWAP is a statewide Reproductive Justice organization committed to improving the overall health status and wellbeing of Black women and girls and we work to achieve this by building the political and electoral power of Black women throughout California. BWWAP believes in a just and equitable future for Black women and as such, engages policy and sponsors legislation that advances gender equity. This bill is important to our organization and the community that we serve, because we believe in and recognize our individual right to bodily autonomy and self-determination. Additionally, Black mommas and families are disproportionately surveilled, targeted and criminalized for our adverse pregnancy outcomes, exacerbating the trauma, deepening health disparities and chilling our ability to exercise out right to bodily autonomy.

This bill is also particularly important to our organization our community, as we know that Black mommas and families are particularly and likely to be targeted

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans

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people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons Black Women for Wellness Action Project supports AB 2223.

Sincerely,

Onyemma C. Obiekea
Policy Analyst
Black Women for Wellness Action Project

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Planned Parenthood®
Act. No matter what.

Planned Parenthood Affiliates of California

March 29, 2022

The Honorable Buffy Wicks
State Capitol
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

Planned Parenthood Affiliates of California, on behalf of the 7 Planned Parenthood affiliates in the state who provide health care and sexual health education in every county, is a proud to support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss. As a leading provider of sexual and reproductive health care, Planned Parenthood health centers treat approximately 1,000 patients a year suffering from pregnancy loss. The subsequent fear of their pregnancy outcome being criminalized makes this reality even more difficult to face.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

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AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts. And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons, Planned Parenthood Affiliates of California is proud to support AB 2223 and appreciate your leadership on this issue.

Sincerely,

Molly Robson

Molly Robson
Legislative Director, Planned Parenthood Affiliates of California

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Disability Rights California
California's protection & advocacy system

LEGISLATION & COMMUNICATIONS UNIT
1831 K Street
Sacramento, CA 95811-4114
Tel: (916) 504-5800
TTY: (800) 719-5798
Intake Line: (800) 776-5746
Fax: (916) 504-5807
www.disabilityrightsca.org

March 29, 2022

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

Re: AB 2223 (WICKS) as amended March 17, 2022 - SUPPORT

Dear Assemblymember Stone:

On behalf of Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, supports of AB 2223 (Wicks) which protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcome whether they have an abortion or experience a pregnancy loss.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. Californians must be able to support friends, community members, and loved ones for any reproductive health care, including abortion, without being investigated, arrested, or prosecuted.

This bill curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses

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are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For these reasons, Disability Rights California supports AB 2223 and urge your 'aye' vote.

Sincerely,

Deb Roth
Senior Legislative Advocate
Disability Rights California

cc: Honorable Members, Assembly Judiciary Committee
Honorable Buffy Wicks, California State Assembly
Melanie Morelos, Legislative Director, Office of Wicks

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NARAL PRO-CHOICE CALIFORNIA

FREEDOM IS FOR EVERYBODY

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss - Sponsor

Dear Assemblymember Wicks,

NARAL Pro-Choice California and our 295,000 members, **we are proud to sponsor AB 2223 (Wicks),** a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

NARAL Pro-Choice California is dedicated to protecting and expanding reproductive freedom for all people. For more than 50 years, NARAL Pro-Choice America has fought to protect and advance reproductive freedom at the federal and state levels—including access to abortion care, birth control, pregnancy and post-partum care, and paid family leave—for everybody. NARAL is powered by its more than 2.5 million members from every state and congressional district in the country, representing the 8 in 10 Americans who support legal abortion.

In the fall of 2021, NARAL Pro-Choice California joined ACCESS REPRODUCTIVE JUSTICE, Black Women for Wellness Action Project, Essential Access Health, National Health Law Program (NHeLP), Planned Parenthood Affiliates of California, the Office of Senate President pro Tempore Toni G. Atkins, and Training in Early Abortion for Comprehensive Healthcare to form the California Future of Abortion Council (CA FAB Council). Comprised of reproductive freedom and sexual and reproductive health care allies, partners, and leaders, the charge of the CA FAB Council was to identify barriers to abortion access for Californians and for people coming from out of state for abortion care, and recommend policy proposals and solutions. AB 2223 directly addresses several of the 45 recommendations in the California Future of Abortion Council Report.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

NARAL Pro-Choice California supports this bill and urges legislators to vote "YES." We will score this vote in the 2022 Reproductive Freedom Legislative Scorecard.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons NARAL Pro-Choice California is proud to sponsor AB 2223.

Sincerely,

Shannon Hovis

Shannon Olivieri Hovis
Director
NARAL Pro-Choice California

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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NARAL Pro-Choice California supports this bill and urges legislators to vote "YES." We will score this vote in the 2022 Reproductive Freedom Legislative Scorecard.

INITIATE JUSTICE

"Building the power of currently incarcerated people, formerly incarcerated people, and their loved ones."

March 29, 2022

The Honorable Buffy Wicks

State Capitol, Room 4240

Sacramento, CA 95814

RE: SUPPORT FOR AB 2223 (Wicks)

Dear Assemblymember Wicks,

On behalf of the Initiate Justice, I write in support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

Initiate Justice fights to end mass incarceration by activating the political power of those directly impacted by it. With more than 45,000 members currently incarcerated in California's state prisons and hundreds of trained organizers on the outside, we advocate for policy change by sponsoring legislation, campaigning for state ballot initiatives, and leading strategic campaigns to ensure policy implementation in line with our goals.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Initiate Justice
1035 S. Grand Ave, Los Angeles, CA 90015
1720 Broadway, 2nd Floor, Oakland, CA 94612
www.initiatejustice.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, Initiate Justice supports AB 2223.

Sincerely,

Gregory Fidell

Gregory Fidell
Policy Manager, Initiate Justice
Greg@initatejustice.org

Initiate Justice
1035 S. Grand Ave, Los Angeles, CA 90015
1720 Broadway, 2nd Floor, Oakland, CA 94612
www.initiatejustice.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917



March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

California Latinas for Reproductive Justice (CLRJ) is a proud Co-Sponsor of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

CLRJ is a statewide organization committed to honoring the experiences of Latinas/xs to uphold our dignity, our bodies, sexuality, and families. We build Latinas'/xs' power and cultivate leadership through community education, policy advocacy, and community informed research to achieve Reproductive Justice. Pregnant people should not be criminalized for having an abortion or experiencing a pregnancy loss. It is necessary for the state to uphold our collective right to bodily autonomy, the ability to decide if and when to parent, and to ensure that our families are able to live with dignity and respect in safe and healthy communities.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

Post Office Box 861766, Los Angeles, CA 90086 • ph: 213.270.6258 • e: info@clrj.org • www.clrj.org

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CALIFORNIA LATINAS for REPRODUCTIVE JUSTICE

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons California Latinas for Reproductive Justice supports AB 2223.

Sincerely,

Lorena Garcia Zermeño

Lorena Garcia Zermeño
Policy Manager
California Latinas for Reproductive Justice

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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COURAGE CALIFORNIA

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: AB 2223 — SUPPORT

Dear Assemblymember Wicks,

On behalf of the 1,400,000 members of Courage California, California's largest online, progressive organizing network, I write in strong support of AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

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Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

Courage California, 7119 W. Sunset Boulevard, No. 195, Los Angeles, CA 90046
323.205.5154 (phone) www.couragecalifornia.org

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all these reasons, Courage California support AB 2223.

Best Regards,



Irene Kao
Executive Director, Courage California

cc: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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ACCESS REPRODUCTIVE JUSTICE

P.O. BOX 3609
Oakland, CA 94609
510-923-0739
ACCESSRJ.ORG

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: SUPPORT AB 2223 (Wicks) – Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks:

ACCESS REPRODUCTIVE JUSTICE, strongly supports AB 2223.

AB 2223 is a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss

As California's only abortion fund, we stand behind the Reproductive Justice movement. SisterSong defines Reproductive Justice as "The human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities."
Reproductive justice demands that we work at the intersections of racial, economic, and gender justice. We strive to use a reproductive justice lens in all our advocacy and outreach.

ACCESS Reproductive Justice often serves as an initial point of contact and primary support system for patients navigating myriad barriers in abortion access—from managing basic logistics, to debunking misinformation, to facing harassment and intimidation at clinics—as well as state-proscribed hurdles like mandatory waiting periods, parental consent, high co pays and cost, or judicial bypass provisions.
Trained, compassionate advocates operate our toll-free bilingual hotline. We help people pay for their abortion care by sending funding directly to the clinic. We also help people get to and from the clinic and we make sure people traveling for care have a safe place to stay. We play a crucial advocacy role in addressing those most impacted by restrictive laws, centering the LGBTQ+ community, low-income, young, and communities of color, among others.
Every day more people are being denied their constitutional right to abortion. We have to continue to advocate for the most vulnerable and affected, especially as COVID-19 continues to restrict abortion access across our communities.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

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The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

For these reasons, ACCESS REPRODUCTIVE JUSTICE respectfully asks for your support on AB 2223 that helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

Respectfully Submitted,

Jessica Pinckney

Jessica Pinckney
Executive Director
ACCESS REPRODUCTIVE JUSTICE

ACCESS REPRODUCTIVE JUSTICE removes barriers to sexual and reproductive health care and builds the power of Californians to demand health, justice, and dignity. At ACCESS RJ, we are building towards a future where all people in California have the freedom and resources necessary to make empowered and dignified decisions about their sexual and reproductive health, including the decision to have an abortion, without shame or stigma and regardless of their race, religion, documentation or economic status. A future where Black, Indigenous and people of color (BIPOC) and queer communities trust themselves; are trusted; and have the social, political, and economic power to sustain their communities and to build the families they desire, chosen and biological.

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if
when
how

Lawyering for
Reproductive
Justice

March 29, 2022

The Honorable Buffy Wicks
State Capitol, Room 4240
Sacramento, CA 95814

RE: Support for AB 2223 (Wicks) - Decriminalization of Abortion and Pregnancy Loss

Dear Assemblymember Wicks,

If/When/How: Lawyering for Reproductive Justice is proud to co-sponsor AB 2223, a bill that protects reproductive freedom by ensuring that no one in the State of California will be investigated, prosecuted, or incarcerated for ending a pregnancy or experiencing pregnancy loss.

If/When/How is a national non-profit organization that works to transform law and policy through advocacy, support, and organizing, so all people have the power to determine if, when, and how to define, create, and sustain families with dignity. One of our urgent priorities is halting the criminalization of people who self-manage abortions or experience pregnancy losses. Criminalizing people for their pregnancy outcomes is dangerous and unsupported in the law. That's why groups like the American Bar Association, American Medical Association and the American College of Obstetricians and Gynecologists oppose the criminalization of people for self-managed abortion or for experiencing pregnancy loss.

It is not a crime to have an abortion, miscarriage, or experience pregnancy loss. Nevertheless, despite clear law forbidding these charges and protecting the right to make decisions about pregnancy, Californians have been charged with homicide offenses for pregnancy losses. Worse, there is frequently no recourse for people who have been harmed by the legal system as a result of their pregnancy loss or self-managed abortion. A critical part of realizing reproductive justice for all Californians is to ensure that this never happens again.

The threat of criminal prosecution has a harmful effect on individual and public health, because people who fear prosecution due to their health issues are deterred from seeking care. This is a critical issue for Black, Indigenous, and other people of color, who are more likely to experience adverse pregnancy outcomes as a result of systemic racial inequities and also more likely to be under scrutiny of punitive state systems. It is also a concern for immigrants, queer and trans people, young people, and others who may self-manage abortions because care in formal medical systems is inaccessible.

Finally, states hostile to abortion rights are attempting to impose criminal or civil penalties on people who assist others in obtaining an abortion. Californians must be able to support friends, community members, and loved ones with their abortion without being investigated, arrested, or prosecuted.

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AB 2223 helps solve this problem by protecting people from criminalization of their pregnancy outcomes.

AB 2223 protects reproductive freedom by clarifying that the Reproductive Privacy Act affirms people's right to be free from criminalization based on their pregnancy outcomes: whether they have an abortion or experience a pregnancy loss.

It curbs the misuse of state power by eliminating out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. This helps prevent the harmful investigations and even unlawful prosecutions that happen when abortions and pregnancy losses are reported as though they were crimes. It also ensures that information collected about pregnancy loss is not used to target people through criminal or civil legal systems.

AB 2223 holds state actors accountable by creating a private right of action for people whose rights have been violated by criminalization of their reproductive outcomes, allowing people to seek justice through the civil courts.

And finally, it ensures that Californians will not be targeted by legal provisions from other states for helping others exercise their fundamental right to reproductive freedom.

For all of these reasons, If/When/How proudly supports AB 2223.

Sincerely,

Farah Diaz-Tello, J.D.
Senior Counsel & Legal Director

Myra Gissel R. Durán
Senior Policy Advocate

CC: Chair, Members and Committee Staff, Assembly Judiciary Committee
Chair, Members and Committee Staff, Assembly Health Committee

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Right to Life
of Central California

April 12. 2022

Hon. Jim Wood
Chair, Assembly Health Committee
1020 N Street, Room 390
Sacramento, CA 95814

Re: AB 2223, OPPOSE

Assembly Member Wood:

On behalf of our thousands of supporters in Fresno and Madera Counties, as well as other supporters in the San Joaquin Valley, Right to Life of Central California urges the Health Committee to vote no on AB 2223.

While our organization in no way supports prosecution for parents who undergo miscarriages, we believe this bill is drafted in a bizarrely and horrifically overbroad manner in a number of respects. Eliminating criminal and civil liability for perinatal death effectively legalizes infanticide, allowing healthcare personnel to deprive life-saving care to a child who, for example, has survived a late-term abortion attempt. It also discourages investigations into abortion practitioners who may be performing unlawful partial-birth abortions or depriving care to newborns. While our friends from the California Catholic Conference worked with Assembly Member Wicks' staff to clarify these points, the imprecise language has remained in the bill.

We urge the members of this committee, particularly our own Central Valley Assembly Member Dr. Joaquin Arambula, to vote against this horrific legislation, and not simply to pass it along with lip-service promises of eventual amendments.

Very truly yours,

John Gerardi

John Gerardi
Executive Director, Right to Life of Central California

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Dear Committee Members,

I am writing on behalf of ***California Catholic Families 4 Freedom CA*** to strongly oppose AB 2223. We formed our group of over 10,000 concerned members within California to Empower California Catholic families to advocate for their medical and religious freedoms.

We strongly oppose AB 2223 for the following reasons:

- The Catholic Church proclaims that human life is sacred and that the dignity of the human person is the foundation of a moral vision for society. This belief is the foundation of all the principles of our social teaching. In our society, human life is under direct attack from abortion and therfore we must defend those most vulnerable.
- The Catholic Church teaches that **all human life is sacred** (sanctity of life) and that everyone has a right to life which should be protected and valued at every stage. The Catholic Church is against abortion in all circumstances. The Catholic Church teaches that life begins at conception.
- "We must begin with a commitment never to intentionally kill," says Living the Gospel of Life "or collude in the killing, of any innocent human life, no matter how broken, unformed, disabled or desperate that life may seem."
- Life is a gift from God. Our teaching calls for respect for human life in every situation, but especially for the most vulnerable. Who can be more vulnerable than a preborn child?
- "Under the guise of "reproductive health," this bill seeks to decriminalize killing babies not only in the womb but also even after the baby is born," Attorney Nada Higuera with Tyler & Bursch, LLP explained. "This is the most extreme, anti-life bill in California's history. It legalizes infanticide, plain and simple."

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- According to Attorney Matthew McReynolds with the Pacific Justice Institute, California lawmakers have crossed a red line by seeking to legitimize the killing of hours-old and even week-old infants. This is not about expanding abortion rights; this is a degree of evil that the overwhelming majority of Americans, regardless of how they identify politically, cannot stomach.
- According to Attorney and President of the National Center for Law and Policy Dean Broyles, AB 2223 seeks to legalize the killing of babies in California after birth. Depending on how the term "perinatal" is interpreted by the courts, this bill legalizes the infanticide of children several weeks after their birth and possibly as late as their first birthday. If this barbaric bill is enacted, there will be no criminal or civil liability for the mother or those who assist her with killing her baby post-birth.

The California Catholic Conference Mission Statement is in part to empower Catholics to put their faith into action consistent with the Catholic teaching. We are called as Catholics to oppose all intrinsically evil acts, everywhere and all the time.

We respectfully ask that you oppose AB2223,



Catholic Families 4 Freedom CA
catholicfamilies4freedomca@protonmail.com

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Siskiyou Conservative Republicans
P.O. Box 604, Yreka, CA 96097
527s EIN 84-4767659

Legislative Analyst
wezgliatto@grecigirl.com
530-586-1430

Oppose AB-2223 Reproductive health.

AB 2223 is not about "reproductive health" but about abortion on demand before, during and after birth. Calling it health care is only an attempt to sanitize and decriminalize infanticide pure and simple.

Unborn babies are considered human beings by the US government in the federal "Unborn victims of Violence Act." It was enacted to protect unborn children from assault and murder. Under federal law anybody intentionally killing or attempting to kill an unborn child should be punished.

The original Hippocratic oath forbids abortion. The modern version of the oath which was written in 1964 still forbids doctors from performing abortions, "above all, I must not play at God"

AB223 sends a message that human life is of little value and can be dispensed with and thrown away as unnecessary and inconvenient. This is a dangerous slippery slope in which the elderly and disabled could be next.

When we legislate that the preborn and born are disposable in our society then no one is exempt from being expendable. This is a dangerous slippery slope in which the elderly and disabled could be next.

Vote NO on this shameful dehumanizing bill.

Respectfully,

Louise R. Gliatto

Louise R. Gliatto, RN

Siskiyou Conservative Republicans Legislative Analysis

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EAGLE FORUM CALIFORNIA

Leading The Pro-Family Movement Since 1972

GOD • FAMILY • COUNTRY



Oppose AB-2223 Reproductive health

Dear Legislators,

Eagle Forum of California is strongly opposed to AB 2223 that allows innocent babies to be harmed, neglected and murdered without recourse! This bill has gone way too far and it should break your heart to know this bill can be used to cover and decriminalize crimes against the most innocent and precious of life. There is no way anyone shall justify this bill to move forward.

"In the name of, 'Science", there are people out there who will harvest the babies for its tissue, its organs, its blood, its brain. Does that sound satanic? It's done today in the name of science. Please replace the word science in in the following sentences with the word satanism in your head and compare your thoughts and feelings. Yes, science already allows the harvesting to happen on the unborn, fetuses old enough to live outside the womb. Science buys and get mothers to donate their babies, as they are being aborted, in the name of science. Science does it both in other countries and here today. If this law were to pass, you know that Science will be there to abuse the power of using these unwanted babies. Is it ok to murder people in the name of science?

A baby has the right to life as much as any other human or even animal life. How many animals' rights activist would deem this bill criminal for animals and we are looking at a bill for human life.

When is a life considered living, is it when it is viable and growing, when the life has a beating heart, when the life is breathing? Anyone legislator elected into office should agree that two signs of life are breath and a heartbeat. Why would we even entertain the idea of a bill that would stop breath and heartbeat of a living human being?

A mother could throw her baby in the trash, and she would not go to jail or see a day in court? A mother could starve the baby and not be punished? A mother could drain the blood from her baby, and drink it and nothing would be done? A mother could choose to harm the baby in a more brutal way and this bill would have us and coroners look the other way?

Someone assisting in the abortion could mishandle the baby and we would allow it? Someone assisting the death of the victim could harvest the baby's organs while living and

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this is acceptable? Someone assisting the abortion could brutalize the baby anyway it wanted and there would be no recourse?

Why does one person have more rights than another person? Is this not a Civil Rights Issue? A mother's rights should not take precedence over a living baby. This bill goes beyond protecting a mismanaged abortion or a woman who accidentally has a still born baby. This bill protects violent criminal acts that lead to the death of a baby human being.

Taking a human life should always be considered murder!

Sincerely,

Summer Boger

Summer Boger
President for Eagle Forum of CA

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Californians for LIFE

CaliforniansForLife.org

Wynette Sills, Director, Californians for Life

916-955-1577, Wynette.Sills@gmail.com

Wynette Sills

Letter of Opposition to AB 2223 for Assembly Health Committee

Dear Assembly Health Committee Members,



We have entered a new era in California politics. No longer can you claim to be "Pro-Choice" when so many of these recent bills, including AB 2223, are exclusively Pro-Abortion, only underwriting and promoting one deadly choice, rather than actually helping women.

Mothers need help when facing an unexpected pregnancy. Yet, AB 2223 will do nothing to help mothers, but only promotes the deliberate, intentional and brutal killing of even more babies and hurting more women.

We see all across America, including California, an increased awareness of the scientific fact that at least one human being is killed in every abortion. Recently, ten people were killed across from the state Capitol and we recoil in horror and grief, but AB 2223 will promote more killing, even decriminalizing killing babies "perinatal" after birth. We must stop all killing, all violence.

Governor Newsom promotes a "no-kill" state for "unwanted" dogs and cats, while AB 2223 promotes killing our own children. How sad and no wonder we are closing schools due to so few children.

FALSE INFORMATION: This 2022 deluge of abortion bills is predicated upon the false premise that supposedly California will experience a "3,000% increase" in out-of-state abortions each year, from about 46,000 currently to supposedly some 1.4 million women coming to California to end the lives of their children.

Yet, how can that be true? According to the Guttmacher Institute, there are 862,320 abortions done each year in the United States. Therefore, how can it be true that California will experience an influx of 1.4 million pregnant women coming here for an abortion? That projected number EXCEEDS the current number of abortions in the entire country! Women in other states will either choose life for their children or perhaps they will resort to the Chemical Abortion Pills, but certainly there will NOT be 1.4 million pregnant women coming to California for the purposes of killing their children. This bill is lethally harmful and based entirely upon false information.

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When most abortions occur: The baby's brainwaves have been measured and recorded. The baby's hands move, the neck turns, and hiccups begin. The human embryo's heart beats 170 times per minute. By ten weeks, fingers and toes are fully formed. The hands and feet move frequently and most embryos show the first signs of right- or left-handedness in the highly complex 10-week-old human embryo. See National Geographic's Endowment for Human Development website EHD.org for more information.

AB 2223 decriminalizes infanticide by eliminating civil and criminal penalties for abortions and including "perinatal death." Perinatal death is defined in existing California law as "the period from the establishment of pregnancy to one month following delivery."

Applying these pre-existing legal definitions means that AB 2223 effectively decriminalizes killing babies born alive through the first month after birth. AB 2223 will prevent prosecution of later child mortality beyond birth, making it a crime to investigate a newborn death.

Chemical Abortion Pills are intended to end the life of a baby in the womb up to ten months of pregnancy, but now there is very little oversight regarding the distribution of these lethal drugs. Since no medical oversight is needed, women further along in their pregnancy, even beyond viability, may gain access to these dangerous abortion pills, which can now be delivered through the mail, without any medical care or ultrasound to determine the woman's stage of pregnancy. These babies will be born alive and capable of surviving if given appropriate medical care, yet they will be left to die under AB 2223.

The abortion industry and AB 2223 proponents do not want these babies to live. AB 2223's use of "perinatal" and its prohibition of investigation into the deaths of newborns is not an accident, an oversight, or a misunderstanding. The pro-death language is intentional, as it has been used in other states.

California families need help during these financially difficult times, not more abortion, not more killing.

Social Justice begins in the womb and if we are not first given the most basic right to life, no other rights really matter, while abortion has also hurt millions of women for a lifetime.

This is a Pro-Abortion effort, supported by the abortion industry.

For these reasons, we urge you to Vote NO on AB 2223.

Women need support, not more abortions to kill their children.

Sincerely,

Wynette Sills

Wynette Sills, Director of Californians for Life

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

May 10, 2022

RE: **Assembly Bill – 2223 Reproductive Health**

Dear Members of the California State Senate and Assembly,

Freedom of Religion – United Solutions (FOR-US) is a multi-faith coalition comprised of over 50 religious leaders of many faiths, all of whom firmly believe that America's government should not inject itself into the personal medical decisions of an individual because these decisions are often tied to deeply held religious beliefs.

Every faith leader who has signed on to our coalition, and/or this letter, firmly believes in protecting the religious freedom of bodily autonomy. Many religions may not agree as to when life begins, however ALL religions believe that once a baby has been born it has the right to life. This right to life is further guaranteed by:

Article 6 of the 1959 Declaration of the Rights of the Child:

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Furthermore, in the United States, children obtain their citizenship at birth through the legal principle of jus soli ("right of the soil")—that is, being born on U.S. soil. As a citizen of the U.S. all individuals, including children, are guaranteed under the Declaration of Independence, *"that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."*

AB-2223, Section 7, 123476. states,
(a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or ***perinatal*** *death due to a pregnancy-related cause.*

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

AB-2223 also states, *"This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal*

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death to establish, bring, or support a criminal prosecution or civil cause of damages against any person."

According to the American Heritage Dictionary, 5th Edition, the definition of **perinatal** states, "Of, relating to, or being the period around childbirth, especially the five months before and one month after birth." This bill codifies abortion through all nine months of pregnancy and decriminalizes killing newborns weeks after birth. AB-2223 would essentially protect a mother from criminal charges for any "actions or omissions" related to her pregnancy. This includes *"miscarriage, stillbirth, or abortion, or* ***perinatal*** *death due to a pregnancy-related cause."* Furthermore, AB-2223 would abolish the requirement that coroners investigate stillbirths, or the death of a child up to one month after birth. Under current law, all fetal deaths at or after 20 weeks, apart from abortions, which are treated as "unattended deaths" in California, and require a coroner's investigation.

In his testimony against AB-2223 in the Assembly Health Committee, Dr. Vansen Huang, a practicing OBGYN of over thirty years, stated, *"A close inspection of this bill DOES allow for the legalizations of killing of innocent newborn children up to the age of 28 days."*

Additionally, Pastor Jack Hibbs of Calvary Chapel Chino Hills, stated in his testimony, *"We are talking about, in a sense, legalizing murder because nobody can investigate, no one can determine how this child died. Those that are supporting this bill, they are supporting a bill that legalizes the termination of a born child and a child that is beyond the age of debate, is it life or is it a blob."*

While religions may disagree as to when an embryo obtains a soul, ALL religions agree that once a baby is born, they are with a soul and the killing of an infant, also known as infanticide, is murder.

Christians base their life and faith on God's Word. God is the creator of all things, and He is the source of all life. Christians view life as holy, pure, and inviolable, and must respect it as they respect God, the giver of life. Life is not ours to take, and God's Word clearly says, *"You shall not murder"* Exodus 20:1. Thus, "Terminating" a life is just as much a sin against God, as it is the life of an innocent child. Additionally, the early church openly condemned the practices of infanticide. Christians have always implicitly affirmed the right of even the disabled to live. From the earliest days of the Christian church, Christians collected funds for distribution to protect abandoned infants. This was done through the development of hospitals with designated sections for foundlings and through the later development of orphanages that would house and care for foundlings. The Christian church gained such a reputation for their care of abandoned infants that churches became the established site for abandoning infants.

Further Biblical passages that support the life of a child, both in and out of the womb, are as follows:

So it is not the will of my Father who is in heaven that one of these little ones should perish. Matthew 18:14

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As you do not know the way the spirit comes to the bones in the womb of a woman with child, so you do not know the work of God who makes everything. Ecclesiastes 11:5

This day, I call upon the heaven and the earth as witness (that I have warned) you: I have set before you life and death, the blessing and the curse. You shall choose life, so that you and your offspring will live.' (Deuteronomy. 30:19)

Pastor Rob McCoy, Senior Pastor of God Speak Calvary Chapel and a faith leader with the FOR-US coalition states, *"When did women's health become the death of a newborn? AB-2223, no matter how these legislators spin it, is simply vile and barbaric."*

While Judaism is clear that *"the fetus is regarded as one of the limbs of the mother"* (Talmud, Gittin 23b and Chullin 58b); it is explicitly criminal to abort a fetus that is not actively threatening the mother's life (Exodus 21:22, Leviticus 20:2, as well as sources below). More importantly, regarding the proposed bill, once the crown of the head is revealed, the baby is now considered a full human being legally. Any form of killing an infant whose crown has shown, as well as passively allowing the child to die, is considered murder and is a capital crime according to Jewish law (Leviticus 20:1-3; Talmud Hilchot Sanhedrin 15). The Jewish law regarding killing any infant (or fetus whose crown has been exposed) is explicitly clear. *"Whomever gives his seed such as Moloch (an ancient cult that sacrificed children) shall surely be put to death."* (Lev. 20:2). Well over a dozen times the injunction against infanticide (as defined as any moment after the crown of the baby has been revealed) is clearly prohibited in the Hebrew Scriptures and explicitly referred to as a capital crime punishable by death. (Lev. 18, 21; Deut. 12, 18; 2 Kings 16, 17, 21; 2 Chronicles 28, 33; Jeremiah 7, 19; Ezekiel 16, 20, 23). While a woman's rights supersede the rights of the fetus in the early development stages if, and only if, the fetus is endangering the mother's life, Judaism is explicitly clear that killing or even passively allowing a developed fetus/infant to die, as proposed by this bill, is considered homicide and is a capital crime.

Rabbi Michael Barclay, Spiritual Leader of Temple Ner Simcha and a faith leader with the FOR-US coalition has stated, *"To actively cause, or even passively allow a developed fetus or infant to die is considered murder in Judaism. Our governmental leaders must be more conscious of the sanctity of all life, and thoroughly reject AB-2223 or they would, God forbid, each be personally responsible for murdering souls that could have developed into great leaders like Mahatma Gandhi, Mother Teresa, and Dr. King."*

The preservation of life is equally important to those of the Muslim religion. The murder or killing of an innocent soul is a major sin in Islam; *"And do not kill the soul which Allah has forbidden to be killed except in the course of justice" (6:151).* Similarly, having children is considered a blessing from God. Many Prophets in the Quran, such as Zakaria and Abraham, prayed to God to give them righteous children. In particular, the Quran prohibited killing one's children out of fear of poverty: *"Do not kill your children for fear of poverty; we give them sustenance and yourself (too); surely to kill them is a great wrong" (17:31).* Additionally, all schools of Muslim law regard abortion as wrong and haram (forbidden), specifically after 120 days in the womb, the point at which Muslims believe a baby is given a soul.

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Regarding the Buddhist and Hindu religions, most followers of Buddhism have adopted classical Hindu teachings that the transmigration of consciousness occurs at conception. Hindus believe that it is acceptable to choose the action that will do the least amount of harm to the people involved: the mother, the father, and the child. Hence, Hinduism is generally opposed to abortion unless it is necessary to save the mother's life. Ahimsa (non-violence) teaches that it is wrong not only to kill living beings, but to also to kill embryos, therefore, it is usually best not to have an abortion unless the mother's life is at risk.

Additionally, religions which believe in reincarnation, such as Hinduism, Buddhism, Sikhism, and Jainism, make a strong argument against abortion and taking the life of a child. They argue that if a fetus is aborted or a child is killed, the soul within it suffers a karmic setback. It is deprived of the opportunities its potential human existence would have given it to earn good karma, and is returned immediately to the cycle of birth, death, and rebirth. Thus, abortion hinders a soul's spiritual progress.

We ask the California State Legislature to recognize that AB-2223 is in direct violation of the Declaration of the Rights of the Child, as well as America's Declaration of Independence, which holds, *"that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."* AB-2223 additionally violates the teachings and beliefs of some of the world's most recognized religions.

FOR-US faith leader, Minister Jennifer Wolff-Gillispie, implores our California legislature to consider that, *"While we, as sovereign human beings, have the power to make our own choices, there is undoubtedly a Divine force at work that is the ultimate judge. This force that made life, reminds us to always choose it. A vote for AB-2223 is a vote against the word of G-d."*

Please consider the religious practices and beliefs of ALL faiths when voting on this bill. Thank you for holding true to America's core values in valuing ALL human rights, including those of an infant.

In faith and freedom,

Freedom of Religion – United Solutions (FOR-US)

Officially endorsed by:

FOR-US Coalition Faith Leaders

1. Archbishop Andrew Maklakov
2. Bishop Leon Benjamin
3. Cantor Yolanda Banks Reed
4. Chaplain Bonnie Munz, RN
5. Ervad Zarrir Bhandara
6. Father Michael Coppenhagen
7. Imam Mahomed Akbar Khan
8. Imam Muhammad Ahsan Siddiqui
9. Minister Darin Gaub

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10. Minister Jennifer Wolff-Gillispie
11. Minister Mark Sherwood
12. Minister Moira Hamilton
13. Minister Peter Morgan
14. Minister Rickey Paton Sr.
15. Pastor Afshin Yaghtin
16. Pastor Arron Lewis
17. Pastor Brandon Johnson
18. Pastor Bruce Mejia
19. Pastor Chris Chapel
20. Pastor Chris Williams
21. Pastor David Scarlett
22. Pastor Deborah Wiley Gold
23. Pastor DJ Rabe
24. Pastor George Ramirez
25. Pastor Greg Young
26. Pastor Jackson Lahmeyer
27. Pastor Kent Hovind
28. Pastor Marc Galli Jr.
29. Pastor Mike Steffens
30. Pastor Patrick Collis
31. Pastor Patty Caldera
32. Pastor Ricardo Beas
33. Pastor Rob McCoy
34. Pastor Robert Schuller
35. Pastor Scott Fairchild
36. Pastor Sylvian Joly
37. Pastor Todd Coconato
38. Pastor Tom Mahairas
39. Pastor Walter Sotelo
40. Pastor William Devlin
41. Rabbi Avraham R. C. Sofer
42. Rabbi Chananya Weissman
43. Rabbi Dinah Dye
44. Rabbi Henry Morse
45. Rabbi Hillel Handler
46. Rabbi Michael Barclay
47. Rabbi Michoel Green
48. Rabbi Pinchas Levin
49. Rabbi Shuey Finklestien
50. Rabbi Yehoishophot Oliver
51. Rabbi Zev Epstein
52. Reverend Mark Virkler
53. Reverend Monsignor James T. Byrnes
54. Reverend Steven L. Craft
55. Reverend Wendy Silvers

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56. Reverend Willaim Kracht

57. Reverend William Cook

58. Venerable Bhikkhuni Dr. Bich Lie

Faith leaders outside of FOR-US who have signed

59. Deacon N. Cox

60. Deacon Timothy Brummer

61. Pastor Chet Berry

62. Pastor Christina Hogg

63. Pastor Daniel Gedamke

64. Pastor Kathryn Gedamke

65. Pastor Linda Becker

66. Pastor Linda Wright

67. Pastor Rick Fiste

68. Pastor Roxie Fiste

69. Pastor Sean Jeremiah

70. Minister Diane Pleeter

71. Minister Fawn Caldwell

72. Minister Gavin Travers

73. Minister Orlando Diaz

74. Minister Shirley Costantino

75. Reverend Christine Bennett

76. Reverend Kathleen O'Sullivan

77. Reverend Lizzie Ann Mary

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From: DefendingConstitutionalRights (DCR), 871 Alice St Apt 6, Monterey CA 93940
http://defendingconstitutionalrights.com/ Colin Gallagher

May 9, 2022

Regarding AB 2223 -

Defending Constitutional Rights (DCR) has the following comments on AB 2223. The bill would DEPRIVE PERSONS from the age of 0 to 30 days of age of LIFE, without DUE PROCESS OF LAW. Indeed, each person whose life is proposed to be terminated would need to be given an opportunity under the law for their life to be defended, but there is no such provision in the bill for each individual to have their life defended, whether by an impartial public defender or via some other process, before their lives are in fact ended. Furthermore, legislators party to this process would make themselves accessory to large scale, systemic murder.

This bill is one of the most profoundly shocking legislative proposals ever seen in the years I have been alive. It proposes nothing less than deeming the act of murder as being "legal" under a proposed State law based on AB 2223. As we saw during the Nazi era, the Nazis did not not escape being deemed liable for their crimes merely because, for example, they were "doing their jobs," or because "an authority" had been able to deem certain acts legal that involved murder and genocide.

Despite multiple calls to amend this bill to remove its proposals to authorize killing of children up to 30 days old, this bill still proposes to authorize that by way of its inclusion of the following provision:
"123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a pregnancy-related cause."

Even if we were to omit all the other concerns with this horrifying bill, and are focusing in on the provision having to do with "perinatal death due to a pregnancy-related cause," everybody knows what the meaning of perinatal is; under the California Welfare and Institutions Code 14134.5, the term 'perinatal' is defined as 'the period from the establishment of pregnancy to one month following delivery.' That's 30 days after delivery, which means that the legislators with this bill are proposing to authorize the murder of children born, living, breastfeeding, seeing and hearing the outdoors, and understanding fully what is happening what is going on with those who have received them after birth. "A pregnancy-related cause" can mean, of course, in California, whatever you want it to mean, and the claim in the bill of "a right of abortion," which is something that the State has no legal ability to create, means that the legislator is clearly intenting to extend the ability to kill the child ("abortion" - which is of course an elective process) up through 30 days after delivery.

This bill is something only someone who is a monster could imagine and put forward in a Legislature before a State.

As manager of Defending Constitutional Rights, I will make a few further comments below as to how members of the California Legislature, the California Attorney General, and

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the Governor would become liable if this bill were to become law. There is also a reasoned argument that California legislators who have authored this bill and who would vote in favor of it are making themselves accessory to murder.

It is also possible that by the California Legislature's action, the author and some adherents and advocates of this bill could become formally culpable of genocide in a court of law.

This interpretation (that California legislators are committing a crime as defined in the United States, if they advance, vote to support, and pass this bill) is supported by existing U.S. Supreme Court precedent, as I will describe below.

1. The provision in the bill that states, "Every individual has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion," is not truthful as there is no right enumerated in the laws of the United States Constitution which stipulates that there is a "right to choose to bear a child" nor a "right to choose to have an to obtain an abortion." Nor can states create a right out of thin air. Regarding the claim of "States' rights," they do not exist with the exception of the limited right granted to States pertaining to voting matters, but even there, the State does not hold the right, the individuals do. See also the U.S. Supreme Court decision in United States v. Cruikshank, 92 U.S. 542 (1875), as later conditioned by United States vs. Guest (383 U.S. 745 (1966)):

"The Fourteenth Amendment prohibits a State from depriving ANY PERSON of LIFE, liberty, or property without due process of law, and from denying to any person within its jurisdiction the equal protection of the laws, but it adds nothing to the rights of one citizen as against another. It simply furnishes an additional guaranty against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society. The duty of protecting all its citizens in the enjoyment of an equality of rights was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the Amendment guarantees, but no more. The power of the National Government is limited to the enforcement of this guaranty."

By 1966, United States v. Guest had altered the legal validity of the original interpretation and decision in the Cruikshank decision of 1875. United States v. Guest 383 U.S. 745 (1966), is a United States Supreme Court opinion, authored by Justice Potter Stewart, in which the court extended the protection of the 14th Amendment to citizens who suffer rights deprivations at the hands of private conspiracies, where there is minimal state participation in the conspiracy. Thus the 14th Amendment may be understood in this context whether there are state actors or private actors who have caused someone's rights to be deprived.

By 2008, elements of the Cruikshank decision were questioned (although not formally overruled) by the famous District of Columbia v. Heller decision, quoted in part here: "With respect to Cruikshank's continuing validity on incorporation, a question not presented by this case, we note that Cruikshank also said that the First Amendment did not apply against the States and did not engage in the sort of Fourteenth Amendment inquiry required by our later cases. Our later decisions in Presser v. Illinois, 116 U. S. 252, 265 (1886) and Miller v. Texas, 153 U. S. 535, 538 (1894), reaffirmed that the Second Amendment

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applies only to the Federal Government." This issue did come before the U.S. Supreme Court in McDonald v. Chicago, in 2010, in which the Supreme Court then "reversed
the Seventh Circuit, holding that the Fourteenth Amendment makes the Second Amendment right to keep and bear arms for the purpose of self-defense applicable to the states,"
as quoted from the decision.

Yet the decision above still stands from the U.S. Supreme Court in Cruikshank as later altered and conditioned by Guest: "The Fourteenth Amendment prohibits a STATE from
depriving ANY PERSON of LIFE (...) without due process of law..." It is clear that this bill, AB 2223, would in fact deprive PERSONS between the age of 0 and 30 days of age
of LIFE, and would do so without DUE PROCESS OF LAW. Hence, the bill would clearly violate these persons' Constitutional rights.

As legislators, if you are considering votes in the affirmative for this bill, you may be thinking that even if the U.S. Supreme Court does fully overturn Roe v. Wade,
that State legislators will be insulated in their capacity as legislators just because of who you are, and so you might think you can feel free to vote in the affirmative
to authorize murder of infants in the womb, and children after birth (the murder of children after birth is what this bill proposes to make legal under State law).

Well, legislators in California are not so well legally insulated from liability as you might they think they are. That is because a contempt fine against an individual
official – if indemnified – is a mechanism for a court effectively to dock California agencies' budgets without having to worry about sovereign immunity. Indeed, the U.S. Supreme Court blessed this kind of maneuver as a means to circumvent state sovereign immunity to contempt fines in Hutto v. Finney (1978). The result of Hutto v. Finney has meant that State attorney generals offices that have ignored people's rights have been ruled against by courts and have had their
agency budgets docked, thus the state sovereign immunity was pierced.

Furthermore, in Harlow v. Fitzgerald (1982), the U.S. Supreme Court held that government officials are entitled to immunity from civil suits so long as the specific conduct they're being sued over "does not violate clearly established statutory or constitutional rights." However, where the officials' behavior would indeed
lead to violation of a right, the decision in Harlow vs. Fitzgerald would not bar a Californian from securing, for example, an anti-harassment order or a more extensive TRO
(and then likely a restraining order, to ensure that the law cannot be implemented) against said officials designed to halt the officials from their behavior. At the same
time, if the record of officials shows a pattern of abuse against constitutional rights, which in California has been occurring due to the abuse against Constitutional rights
that many California legislators have repeatedly committed, then anti-harassment orders can be utilized against individual legislators as well.

Quite obviously, authorizing - or attempting to legislate the authorization of - the murder of someone who is born, is murder, and clearly violates the rights of the child that is thus murdered regardless of the fact that the State is intending for the persons doing the murdering not to be held liable up through 30 days after
the moment of birth, by the bill's very proposed words.

With respect to the legislators, who become accessories to murder by the State's

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own current law definition as they vote to enable it,
it's possible a case can be made against those who vote for AB 2223, and if the bill were to be finalized and made law,
a case would certainly be able to be made against the State to overturn AB 2223 following the principles above based on the concept that
the children who (by definition, in the bill) the Legislature would be subject to unconstitutional actions under AB 2223 and the officials' actions
in creating the bill and signing it into law, and implementing the law, would lead to the violation of a clearly established constitutional right.

Additionally, action at the U.S. Supreme Court is probable against this bill, if it were to become law, particularly considering that it proposes murder of children.

Finally, it is also worth noting that the bill, if it were to become law, clearly would result in acts of genocide, and therefore it would be worth exploring
prosecution of the California Legislature, California Attorney General and California Governor (if the bill were signed into law) on a larger world stage, to address
the problem of genocidal acts by the States.

Respectfully,

Colin Gallagher

Colin Gallagher, owner / manager for Defending Constitutional Rights (DCR)

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Children's Health Defense
California Chapter

Children's Health Defense California Chapter opposes AB 2223

Dear Assembly Member Wicks and Senate Health and Judiciary Committees,

The California Chapter of the Children's Health Defense strongly opposes AB 2223. The language of this bill is insidious and detrimental to the vitality of human health. We can not allow the live birth of a viable human being to be discarded into the fundamental right of the mother to do with however she pleases. Since when do we allow harm against another human being? The language in this bill, which demotes an actual birth to "pregnancy outcome" or "viable fetus" is deplorable and goes against basic human virtues and morals. We are sanctioning the state-assisted death of a child.

The language, which determines "perinatal death" is vague (currently defined as 7 days post birth by the WHO and some sources claim up to 28 days post birth in other structured documents.) We can not support a bill which claims to enact "privacy" rights to perinatal death. Furthermore, language which states that the coroner should not hold an inquest for deaths related to or following unattended fetal death will only position coroners as accomplices to murder. Simultaneously, this language prevents a corner who suspect foul play to provide a statement which may bring about prosecution against those who contribute to "unattended fetal death."

What is the purpose of this bill? If we are looking to strengthen a woman's right to terminate a pregnancy, this bill is not that. This bill, in fact, will only help legitimize the murder of "unwanted" children, most likely contributing to infanticide on a massive level in poor communities, disenfranchised communities, communities of color and communities lacking in access to health care. This bill is racist and discriminatory and we stand against AB 2223.

Sincerely,

Aria Morgan
Managing Editor
Children's Health Defense - California Chapter
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ariamorgansd@protonmail.com

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California ProLife Council and Right to Life Federation
500 Capitol Mall #2350
Sacramento, CA 95814 800-924-2490

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April 3, 2022

Assembly Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, CA 95814-5624

RE: Position Letter on Assembly Bill 2223

Dear Assembly Judiciary Committee Members:

The California ProLife Council ("CPLC") wishes to register its opposition to Assembly Bill 2223 ("AB 2223") for the following reasons:

1. AB 2223 violates the U.S. Constitution's Fourteenth Amendment guarantees of the Due Process right to life and of the Equal Protection of the laws with regards to newborn infants.

AB 2223 proposes a new Section 123467 to the Health and Safety Code which states:

> (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or *perinatal death.*
>
> (b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

Although the bill does not define "perinatal death," the Centers for Disease Control defines the term as "late fetal deaths at 28 completed weeks of gestation or more and early neonatal deaths under age 7 days." Other medical authorities define it as deaths occurring between 20 weeks' gestation and 28 days after birth. It is of particular importance that the bill does not limit application of the term only to the context of children born alive after attempted abortion. It could also potentially include "trash can babies" or newborn deaths from other overt acts, if they occur within the specific time frame after birth.

Roe v. Wade, 410 U.S. 113, 157 (1973) found that the Fourteenth Amendment applied to infants upon birth, but not before. Therefore, children born alive, regardless of whether their births were spontaneous or the result of "failed" abortions, are constitutional persons and are entitled to Fourteenth Amendment Due Process and Equal Protection of the laws. By exempting individuals from civil and criminal penalties for the deaths of newborns within the meaning of "perinatal death," while preserving civil and criminal penalties for the deaths of older individuals, this bill would deprive those young infants of their Fourteenth Amendment protections. The lenient treatment of individual responsible for deaths of younger infants would likely result in more deaths at that age.

To illustrate, the passage of AB 2223 would make the prosecution of late term abortionist Kermit Gosnell impossible. Dr. Gosnell was convicted in 2013 of snipping the spinal cords of three infants born alive after abortions performed in his clinic. Notably, clinic employees testified that in Gosnell's office "live births occurred regularly" when babies were late term. Under proposed Section 123467(b), as one who "aids or assists" a pregnant woman in the exercise of her rights, Dr. Gosnell could not have been prosecuted if this bill had been law at the time in his jurisdiction.

2. AB 2223 conflicts with existing CA Health and Safety Code Section 123435.

This Code Section states, "The rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born spontaneously." This statute properly preserves the constitutional rights of children born alive after "failed" abortions. Despite the existence of Section 123435, the responses of the CA Department of Health Care Services to CPLC's Public Records Act Requests indicated that the state does nothing to actively enforce it.

3. AB 2223 would create some undesirable anomalies in the law.

A. Amendments to Government Code Section 27491 proposed by AB 2223 would remove the requirement that a coroner investigate "deaths related to or following known or suspected self-induced or criminal abortion." The bill does not limit this investigative prohibition to fetal deaths but might possibly also include the death of the woman.

Additionally, proposed Health and Safety Code Section 103005(b) would prohibit the use of the coroner's certificate of fetal death "to establish, bring, or support a criminal prosecution or civil

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cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus."

At the same time, the bill preserves the definition of "unauthorized" abortions in Health and Safety Code Section 123468 as involving those performed on viable fetuses that "posed no risk to life or health " of the pregnant woman. But without crucial evidence from the coroner's office, it would be very difficult, if not impossible, to bring any cause of action whether civil or criminal against anyone, including Dr. Gosnell, for these "unauthorized" or "criminal" abortions. The bill preserves the existence of the category of criminal abortions while removing any mechanism of enforcement against those that take part in one.

It is worth mentioning that the State of California *regularly violates its own law* with respect to "unauthorized abortions." Through the Medi-Cal program, the state pays for abortions throughout all nine months of pregnancy, with no medical reason needed. This fact was confirmed by DHCS in its response to our Public Records Act Request.

B. A final anomaly presented by AB 2223 is the addition of self-abortion in the definition of those abortions that are "authorized" by Health and Safety Code Section 123468. The justification for legal abortion was to keep women from resorting to dangerous self-abortion techniques. It seems that abortion supporters have come full circle, and indeed have taken a step backwards, by proposing this amendment.

Thank you for consideration of CPLC's concerns. We earnestly hope that this dangerous bill will be tabled forever.

Sincerely,

Sheila Green, Esq.
Central Vice President
California ProLife Council

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THE NATIONAL CENTER FOR LAW & POLICY

SUBMITTED VIA POSITION LETTER PORTAL

March 29, 2022

Assembly Judiciary Committee
1020 North Street, Room 104
Sacramento, CA 95814

Re: Letter in Strong Opposition to AB-2223—Infanticide Decriminalization

Dear Chair and Honorable Members of the Assembly Judiciary Committee,

I write on behalf of my fellow citizens of California and The National Center for Law & Policy, where I serve as president and chief counsel. Both in my capacity as a constitutional attorney practicing before the U.S. Supreme Court and as a father of three precious adopted children, I strongly urge you to vote **no** on AB-2223. This egregious bill would, if enacted, endanger children and legalize infanticide.

The relevant portion of AB-2223 reads:

"123467.
(a) Notwithstanding any other law, **a person shall not be subject to civil or criminal liability or penalty**, or otherwise deprived of their rights, **based on their actions or omissions with respect to their pregnancy** or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or **perinatal death** (emphasis added)."

"Perinatal" has no fixed definition in medicine today, but includes the death of a child weeks, months and even possibly up to a year after the child's birth. As written, the sweeping language of this bill will legalize child homicide or murder, whether through neglect, exposure, starvation, strangulation or other unlawful means. This is unacceptable outcome for a civilized people who claim to value human life. I strongly urge you to vote no on AB-2223.

Sincerely,

Dean R Broyles

Dean R. Broyles, Esq.
President & Chief Counsel
The National Center for Law & Policy

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Leslie Yip
3457 Forbes Ave
Santa Clara
CA 95051

April 6, 2022

Assembly Judiciary Committee
Legislative Office Building
Room 104
1020 N StreetSacramento, CA 95814
Phone: (916) 319-2334

Honorable Judiciary Committee Members:

I urge you not to pass the bill AB-2223 because it violates human rights. This bill intimidates government officials and coerces them to not investigate and prosecute, or even regulate crimes related to perinatal death. It will make it easy for a parent or anybody allegedly helping her about abortion or perinatal management to kill a baby, even if on questionable legal ground and using very cruel means. This law can be used to hide abuse, mutilation, or murder of babies, because Government officials, under intimidation, will intentionally look the other way. This law gives a person rights to sue for legal fees against a government official who violate this law. Which officials in their right mind would bother to look into deaths related to newborns? They have a lot to lose but nothing to gain. What other countries, even those the US criticizes as violating human rights by mandating abortion to control population, have laws that intimidate government officials by mandating government officials to pay for legal fees when sued by those prosecuted for abortion-related crimes? Do we protect newborns even less than they?

All living babies, regardless of age, are worthy of protection. That is basic human right-- life, liberty and the pursuit of happiness. Newborns can speak no words, but are human. Where are their rights? If we do the same thing as other countries do in making it easy to kill babies, how hypocritical are we to accuse other countries as violating human rights? Do we care about abuses? Do we care about human lives? Are we Nazis?

Please do not pass AB-2223.

Sincerely,

Leslie Yip

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Phil Yip
3457 Forbes Ave
Santa Clara
CA 95051

April 6, 2022

Assembly Judiciary Committee
Legislative Office Building
Room 104
1020 N StreetSacramento, CA 95814
Phone: (916) 319-2334

Honorable Judiciary Committee Members:

I urge you not to pass the bill AB-2223 because it violates human rights. This bill intimidates government officials and coerces them to not investigate and prosecute, or even regulate crimes related to perinatal death. It will make it easy for a parent or anybody allegedly helping her about abortion or perinatal management to kill a baby, even if on questionable legal ground and using very cruel means. This law can be used to hide abuse, mutilation, or murder of babies, because Government officials, under intimidation, will intentionally look the other way. This law gives a person rights to sue for legal fees against a government official who violate this law. Which officials in their right mind would bother to look into deaths related to newborns? They have a lot to lose but nothing to gain. What other countries, even those the US criticizes as violating human rights by mandating abortion to control population, have laws that intimidate government officials by mandating government officials to pay for legal fees when sued by those prosecuted for abortion-related crimes? Do we protect newborns even less than they?

All living babies, regardless of age, are worthy of protection. That is basic human right-- life, liberty and the pursuit of happiness. Newborns can speak no words, but are human. Where are their rights? If we do the same thing as other countries do in making it easy to kill babies, how hypocritical are we to accuse other countries as violating human rights? Do we care about abuses? Do we care about human lives? Are we Nazis?

Please do not pass AB-2223.

Sincerely,



LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Jen Yip
3457 Forbes Ave
Santa Clara
CA 95051

April 6, 2022

Assembly Judiciary Committee
Legislative Office Building
Room 104
1020 N StreetSacramento, CA 95814
Phone: (916) 319-2334

Honorable Judiciary Committee Members:

I urge you not to pass the bill AB-2223 because it violates human rights. This bill intimidates government officials and coerces them to not investigate and prosecute, or even regulate crimes related to perinatal death. It will make it easy for a parent or anybody allegedly helping her about abortion or perinatal management to kill a baby, even if on questionable legal ground and using very cruel means. This law can be used to hide abuse, mutilation, or murder of babies, because Government officials, under intimidation, will intentionally look the other way. This law gives a person rights to sue for legal fees against a government official who violate this law. Which officials in their right mind would bother to look into deaths related to newborns? They have a lot to lose but nothing to gain. What other countries, even those the US criticizes as violating human rights by mandating abortion to control population, have laws that intimidate government officials by mandating government officials to pay for legal fees when sued by those prosecuted for abortion-related crimes? Do we protect newborns even less than they?

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Please do not pass AB-2223.

Sincerely,

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Morante, Cindy

From: Steve Breshears <steve.dollye@gmail.com>
Sent: Monday, April 4, 2022 1:46 AM
To: Merrilees, Alison; Morante, Cindy; Assemblymember Stone; Assemblymember Holden; assemblymember.kaira@assembly.ca.gov; Assemblymember Maienschein; Assemblymember Reyes; Assemblymember Rivas
Subject: AB 2223 (Wicks)

To Assemblymembers Mark Stone, Chris Holden, Ash Kaira, Maienschein, Reyes and Rivas
Democratic Members of the Assembly Judiciary Committee

I am contacting you to ask that you vote NO on AB 2223 (Wicks), when it is before your committee on Tuesday. This bill, as you know, would decriminalize all forms of late-term abortion and the killing of babies after they are born (perinatal death, i.e. infanticide); though definitions for perinatal vary, it includes the demise of newborns after birth and can extend to up to one year. Allowing an infant to die up to one year?

Surely, as fathers and mothers yourselves, you can see how unspeakable such an act is and where it could lead. Have you wondered how will the baby die? Will lethal injections be mandated to avoid prolonged suffering due to exposure to the elements or worse? Do you see the holocaust that is being created by such a barbaric act? And to make matters worse, to shield the mother from civil and criminal charges and any who aid or assist them, and to top it off, to allow the mother to sue any legal authority for holding them accountable?

Each of you have been champions to ensure that voices are heard - (Stone) - you fought to assist low income pregnant mothers better prepare for arrival of their babies; (Holden) - you help secure funds to retain vital services for individuals and families living with disabilities, including autism, Down Syndrome, cerebral palsy and intellectual disabilities; (Kaira) - you are dedicated to equity, social justice and human rights (doesn't an infant deserve these as well?); (Maienschein) - you received an Easter Seals award, an organization dedicated to safe babies and healthy families; (Reyes) - you are dedicated to working to build a better quality of life for Californians; and (Rivas) - you know firsthand the struggles and challenges so many face.

I would encourage you all to reach out to your children and to your spouses, tell them what is being proposed in AB 2223 and ask them what they think. Judging from what I read on your webpages, I would imagine they would, without hesitation, urge you to vote NO on this bill.

Thank you.

Rosario Breshears
California Resident who opposes SB 2223

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CALIFORNIA
CAPITOL CONNECTION

March 29, 2022

Committee of Judiciary
1020 N Street, Room 140
Sacramento, CA 95814

RE: Assembly Bill 2223- Opposition

Dear Members:

On behalf of hundreds of pastors and churches across the state, the California Capitol Connection is writing to express its opposition to for AB 2223.

AB 2223 would open the door to legalize the killing of babies in California after birth. Depending on how the term "perinatal" is interpreted, this bill could legalize the infanticide of children several weeks after their birth and possibly as late as their first birthday.

Children are a gift from God that we should cherish and protect. We strongly urge you to oppose this bill.

Sincerely,

Brandon Campbell
Northern California Organizer
California Capitol Connection

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

The
Frederick Douglass
Foundation of California

March 22, 2022

The Honorable Mark Stone, Chair
Assembly Committee on Judiciary
1020 N Street, Room 104
Sacramento, CA 95814

RE: Assembly Bill 2223 (Wicks) - OPPOSE

Dear Chair Stone and Committee members:

The Frederick Douglass Foundation of California (FDFCA) opposes AB 2223 for several reasons. First, abortion and infanticide date back to the Canaanite ritual practices of child sacrifice.[i] Children were offered as sacrifices to the idols of Baal, Molech and Chemosh, among others. This ritual practice of child sacrifice spread across civilizations from the Phoenicians at Carthage to Egypt, Israel, Africa, Europe, Asia, to the pre-Columbian cultures of South America.[ii] Child sacrifice is prohibited when life is recognized as sacred and uniquely created in the image of God. AB 2223 is an offense to the founding principles of our nation and to God.

Secondly, AB 2223 continues the practice of eugenics on steroids. It targets the very population it pretends to protect, women of color. The roots of abortion run deep in those who support the work, of Margret Sanger the founder of Planned Parenthood, to actively control the birth rate among "undesirables." Margret Sanger was a eugenist and a formidable force pushing the 1939 "Negro Project." On June 18, 2000, Planned Parenthood of Greater New York admitted that "Planned Parenthood was founded by a racist white woman. That is part of history that cannot be changed."[iii]

The Klu Klux Klan, founded as a paramilitary arm of the Democrat Party, would be proud to call Sanger one of its own because Planned Parenthood has exterminated more Black people in 49 years, than all the lynching, bombing and murders combined under their reign of terror between 1865 and 2022. By 2002, sixteen million Black children had been aborted reducing the Black population from 17 percent nationally to 13 percent.[iv] The Black family has been decimated by the government's family planning laws.

Thirdly, this bill is branded "reproductive health." It pretends to be concerned with the health of women of color. Nothing could be further from the truth. The murder of innocent babies is the primary and underlying reason for the work of Planned Parenthood within communities of color. Seventy-nine percent (79%) of Planned Parenthood's surgical abortion facilities are strategically located within walking distance of African American and or Hispanic communities.[v] This is

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targeted genocide. The United Nations defines genocide under Article II(d) as imposing measures to prevent births within a group.[vi] Planned Parenthood, its associated supporters, and funders are selectively committing genocide on specific populations.

Genuine care for the reproductive health of women, of all colors, would include incentives to reduce contributing factors in unwanted pregnancies. Historic cultic temple prostitution was an integral part of the Canaanite religion closely tied to child sacrifice. Today, the relationship between sexual immorality and promiscuity have resulted in millions of unplanned pregnancies outside the covenant of marriage. Valuing women, families, and children should be the goal of a healthy society. Why should California become the new "killing fields?" Women, children, and families deserve better.

Finally, when a society embraces, celebrates, and legalizes the murder of its future generations, that society is destined for self-extermination. Mother Teresa said "...if we accept that the mother can kill her own child, how can we tell other people not to kill one another."[vii] Elon Musk said, "If people don't have more children, civilization is going to crumble. Mark my words."[viii]

FDFCA opposes AB 2223, and we respectfully ask, on behalf of our members in this state, for your NO vote.

"POWER CONCEDES NOTHING WITHOUT A DEMAND"

Rochelle Conner

Rochelle Conner
Frederick Douglass, Abolitionist

---

[i] https://biblearchaeology.org/images/Child-Sacrifice-and-Abortion/4---Canaanite-Child-Sacrifice---Smith-90-125.pdf
[ii] https://en.wikipedia.org/wiki/Child_sacrifice
[iii] https://www.worldtribune.com/employees-say-planned-parenthood-steeped-in-white-supremacy/
[iv] https://curepolicy.org/content/uploads/2022/01/CURE-Impact-of-Abortion-Report-DIGITAL-SPREADS.pdf
[v] https://www.lifeissues.org/2012/10/new-research-shows-planned-parenthood-targets-minority-neighborhoods/
[vi] https://www.un.org/en/genocideprevention/genocide.shtml
[vii] https://www.stjoanofarcchurch.org/Downloads/e8304718-37cb-4c45-81c8-4cb54ae8eb99.pdf
[viii] https://www.indy100.com/viral/elon-musk-how-many-children

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March 29, 2022

Assembly Member Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

CALIFORNIA
FAMILY COUNCIL

RE: AB 2223- Infanticide Decriminalization

Dear Assembly Member Mark Stone,

On behalf of our tens of thousands of constituents, allied organizations, and over 2,000 churches across the state, the California Family Council is opposed to AB 2223, a bill that seeks to codify the killing of unborn children throughout all nine months of pregnancy as well as decriminalize killing newborns days or even weeks after birth.

The proposed legislation would shield a mother from civil and criminal charges for any "actions or omissions" related to her pregnancy, "including miscarriage, stillbirth, or abortion, or perinatal death." Although definitions of "perinatal death" vary, all of them include the demise of newborns seven days or more after birth.

The bill additionally protects anyone who "aids or assists a pregnant person in exercising" these rights. It also allows a woman to sue any police department or legal authority which arrests or charges her for hurting or killing her child under provisions of the bill.

This bill would legalize infanticide by the mother or any accomplice. Killing or letting a newborn die will no longer have any criminal penalties associated with it if this bill passes. It is the government's job to protect vulnerable human beings from harm. Newborns are valuable human beings who should be protected and that doesn't change simply because their mother doesn't want them.

California has a Safely Surrendered Baby Law that allows a mother to drop off her newborn baby at a hospital, police department, or fire station with no questions asked. Mothers should not be killing their newborn children when all they have to do is take them safely to a drop-off location.

The California Family Council strongly opposes AB 2229 and encourages this committee to reject this evil and brutally violent bill.

Sincerely,

Greg Burt
Director of Capitol Engagement
California Family Council

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PACIFIC JUSTICE INSTITUTE –
Center for Public Policy

P.O. Box 276600
Sacramento, CA 95827
Telephone: (916) 857-6900

SUBMITTED VIA POSITION LETTER PORTAL

March 29, 2022

ASSEMBLY JUDICIARY COMMITTEE
Legislative Office Building
Sacramento, California 95814

Re: Assembly Bill 2223– Oppose

Dear Chair and Honorable Members of the Assembly Judiciary Committee:

Please accept this as the statement in strong opposition to Assembly Bill 2223 on behalf of Pacific Justice Institute – Center for Public Policy. We ask that our concerns be noted and addressed in the forthcoming committee analysis of this Bill.

Background

According to the Legislative Counsel's Digest, AB 2223 seeks to do the following:

- "This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person."
- "This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable."
- "The bill would authorize a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff."

Summary of Arguments in Opposition

AB 2223 holds the distinction of being one of the most ghastly, horrific, and unconscionable proposals ever introduced in California. Not only does it condone the most gruesome and ghastly methods of ending the lives of viable babies, but it decriminalizes all manner of "perinatal death"—the butchering of newborns. Not content with this insanity, the Bill empowers those who dismember, suffocate, or starve viable and newborn children to be rewarded for their savagery, punishing state actors who dare oppose them.

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Legal Analysis

AB 2223 is multi-faceted, and several of its provisions deserve greater scrutiny than can be accorded in this brief analysis. In the interest of brevity, we will highlight here just one of the many appalling implications of the Bill, Section 7. It reads in full:

> **SEC. 7.**
> Section 123467 is added to the Health and Safety Code, to read:
> **123467.**
> (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.
> (b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

The widely accepted death of "perinatal death" as included death that occurs after birth removes this Bill from the typical category of abortion expansions. This is a new, different and almost-unthinkable approval of ending lives that nearly all Americans—including many who consider themselves ardently pro-choice—consider fully human beings. If the Legislature intended the term to mean something different, it must unequivocally say so. Otherwise, the commonly understood definition of the term will plunge this State into a new level of infanticide. Neither *Roe v. Wade*, nor *Planned Parenthood v. Casey*, nor any of their progeny come close to approving what has been proposed here. Nor have such authorities ever suggested that back-alley or self-induced abortions should be normalized. And never before, so far as we are aware, has it seriously been suggested that those who deliberately end the lives of their viable children or newborns should be able to sue state actors who society has tasked with investigating the line where abortion ends and murder begins. AB 2223 cannot pretend to be a modest extension of existing law. It is far-reaching and ghoulish.

Conclusion

Words fail to adequately describe or denounce the barbarism of AB 2223. Until now, Californians could operate under the illusion that their state was civilized. To read, in black and white, the plain language of this statute and the lengths to which some legislators are willing to go to condone and cover up the murder of the innocent is unspeakable. This Bill must be unequivocally repudiated.

Respectfully submitted,

Matthew McReynolds
SENIOR STAFF ATTORNEY
PACIFIC JUSTICE INSTITUTE – CENTER FOR PUBLIC POLICY
Sacramento, CA 95827
Tel: (916) 857-6900
E-mail: mmcreynolds@pji.org

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Americans United for Life

Written Testimony of Katie Glenn, J.D.
Government Affairs Counsel, Americans United for Life
In Opposition to AB 2223
Submitted to California State Assembly Committee on Judiciary
March 29, 2022

My name is Katie Glenn, and I serve as Government Affairs Counsel of Americans United for Life, a national law and policy nonprofit organization with a specialization in abortion, end-of-life, and bioethics law. Our vision at AUL is a world where everyone is welcomed in life and protected in law.

Thank you for the opportunity to testify against AB 2223, a bill that would confuse existing laws, dehumanize the unborn, and prevent California lawmakers and law enforcement from responding to specific problems as they arise.

What does this bill cover? You don't know but it doesn't look good.

AB 2223 states that "a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death."[1]

"Perinatal" is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods."[2] DHCS states that women who complete a live birth should have a postpartum visit between 21-56 days,[3] and March of Dimes defines "neonatal" as the first 27 days of a child's life.[4] Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide.

What does it mean to "act or omit" under a law that permits the broadest power over the child during the 40 weeks of pregnancy and some unknown timeframe thereafter? This would include withholding medical care, nourishment, or warmth, any of which might kill the child. It might create a right to use illegal drugs during pregnancy, or at least a protection from being prosecuted under California drug laws.

[1] Cal. AB 2223 § 7(a)
[2] Cal. Health & Saf. Code § 123630.2
[3] https://www.dhcs.ca.gov/dataandstats/Pages/Prena.aspx
[4] https://www.marchofdimes.org/peristats/data?reg=99&top=6&stop=107&lev=1&slev=4&obj=1&sreg=06

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California law grants infants born alive during an abortion the same rights as any other child at the time of birth,[5] yet this bill denies those rights by stating that neither the mother, nor any person who "aids or assists" her may be liable or penalized for denying the child life-saving care.[6] Before enacting sweeping and unknown changes, this committee and the legislature should consider how it interfaces with other California laws.

What does "interference" mean? Would it mean that the state could not investigate dangerous lawbreakers? This bill would engender a regulatory regime akin to the one in Pennsylvania that allowed the infamous abortion provider Kermit Gosnell to operate his "House of Horrors" for many years. Gosnell, who was ultimately convicted and given a life sentence, was able to provide unsafe, unsanitary, and deadly abortions for many years because, according to the Grand Jury report, the Pennsylvania Department of Health thought it could not inspect or regulate abortion clinics because that would interfere with access to abortion.[7] This bill lowers professional accountability. It does not protect, empower, or help anyone other than abortion businesses. If you knew someone was breaking the law, could you stop them—or would that be a violation of this "fundamental right?"

Similar bills introduced in Vermont and New Hampshire have included under this "fundamental right to personal reproductive decisions" the right to have your insurance or the state pay for reproductive technology like IVF, egg freezing, and surrogacy. This broadly written bill will be taken to court and interpreted to cover all sorts of things the bill sponsors do not anticipate today. That question of "access" becomes a problem when what someone wants costs too much, takes too long, or no local healthcare professional wants to do it.

If a baby is found in a dumpster can law enforcement investigate the child's death? Probably not under AB 2223.

This bill has nothing to do with a right to privacy. It is not about preventing women from being prosecuted under abortion laws, something California and nearly every other state already does. It is about covering up crimes. Criminals carry duffel bags of abortion drugs across our Southern border.[8] Babies are thrown in dumpsters,[9] over[10] and over.[11] I read so many stories about babies abandoned in California, I ran into the LA Times' paywall. And this legislature's response is to pass a bill forbidding law enforcement from investigating these horrific crimes.

[5] Cal. Health & Safety Code § 123435
[6] Cal. AB 2223 § 7
[7] https://www.theatlantic.com/national/archive/2013/04/why-dr-kermit-gosnells-trial-should-be-a-front-pagestory/274944/
[8] https://www.youtube.com/watch?v=CR3uexqGgXo
[9] https://www.latimes.com/california/story/2019-07-30/baby-dies-fairfield-northern-california
[10] https://www.latimes.com/local/lanow/la-me-baby-heat-dumpster-20190612-story.html
[11] https://wgntv.com/news/newborn-boy-found-abandoned-in-restroom-trash-bin-at-california-park/

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One of the duties of coroners in the state of California is to investigate "violent, sudden, or unusual deaths."[12] AB 2223 would repeal from this list "deaths related to or following known or suspected self-induced or criminal abortion."[13] A coroner is still required to document relevant information on a certificate of fetal death, but it "shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus."[14] If a coroner had reason to believe that the circumstances of a fetal death were suspicious or criminal, or even that the mother was being coerced or abused, that information could not be used by law enforcement to investigate the suspected crime. Criminals will walk free because "California protects the right to reproductive privacy."[15]

AB 2223 establishes a cause of action for "[a] party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a federal district court or state superior court."[16] Under this bill, if a person commits a horrific act, like abandoning a newborn in a dumpster in 102-degree weather, if the police find that person, she (or he, if acting at the direction of the mother) could sue law enforcement for infringing on her right to "make and effectuate decisions about all matters relating to pregnancy, including…childbirth [and] postpartum care…"[17] Thus, the bill sponsors expect law enforcement to ask no questions and look no further into the situation, even though in this case, the mother was 15 years old and likely the victim of a crime herself.[18] This is outrageous and will only lead to more cases of child abandonment or death, and more harm to pregnant women if abusers, traffickers, and pimps know that reproductive control and crimes related to abortion or childbirth will go uninvestigated and unpunished.

This bill creates a legal fiction.

If you pass this bill, and California law denies motherhood by repealing scientifically accurate terms[19] and further dehumanizes the unborn, a unique, unrepeatable human being will still be created at the moment of fertilization.[20] Nothing about this text changes the biological reality of the child or his or her mother. The sponsors of this bill have decided that the youngest Californians aren't worth protecting—even once they're born—but that does not mean that they are not members of the human family.

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[12] Cal. Gov. Code § 27491
[13] Cal. AB 2223 § 2
[14] Cal. AB 2223 § 4
[15] Id.
[16] Cal. AB 2223 § 9
[17] Cal. AB 2223 § 5
[18] https://www.latimes.com/local/lanow/la-me-baby-heat-dumpster-20190612-story.html
[19] Cal. AB 2223 § 5(b)-(c), § 6, §8(b)(2)
[20] https://lozierinstitute.org/a-scientific-view-of-when-life-begins/

Unlike almost every other state, California's "health exception" and bills like AB 2223 virtually permit abortion throughout pregnancy. A third trimester abortion is a four-day process[21] that includes a lethal injection of digoxin or potassium chloride,[22] the very same drug California used for the death penalty[23]—until Governor Newsom's moratorium in 2019.[24] That is what we are talking about today. Enshrining a fundamental right to starve, dismember, or lethally inject a child throughout pregnancy and beyond with minimal oversight.

Infanticide is an act or omission that kills a helpless baby. It is also the logical next step for a state that rushes to be an "abortion sanctuary." If a baby has no right to life at 39 weeks' gestation, if California asserts no interest in defending and protecting that child, then why would a right attach just because the child draws breath? What is the difference? Both need nourishment and protection to survive. Neither can care for themselves for many years. The mask always slips.

Vote no on this confusing, overbroad, and dehumanizing bill.

For Life,

Katie Glenn, Govt Affairs Counsel
Americans United for Life

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[21] https://www.drhern.com/third-trimester-abortion/
[22] https://www.mottchildren.org/health-library/tw2562
[23] https://www.aclu.org/press-releases/aclu-says-californias-use-paralytic-drug-during-executions-unconstitutional
[24] https://www.cdcr.ca.gov/capital-punishment/

Traditional Values for Next Generations

다음세대 가치관 정립 & 보호 단체 (TVNext)

March 29, 2021
Assembly Member Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

RE: AB 2223- OPPOSE Infanticide Decriminalization

Dear Assembly Member Mark Stone,

On behalf of our tens of thousands of partnering Asian-American parents, grandparents, pastors, leaders and allied organizations across the state, the Traditional Values for Next Generations is writing to express its OPPOSITION for AB 2223.

We are more than greatly concerned on this particular bill; AB2223 for a number of reasons. Depending on how the term "perinatal" is interpreted by the courts, this bill not only protects the rights of any type of abortion but it expends to discriminating against the life of born alive babies.

We are greatly concerned, under AB 2223, California may follow the steps of former Philadelphia abortionist Kermit Gosnell, who murdered three infants born alive after botched abortions, and could not be prosecuted. AB 2223 expressly authorizes any person to facilitate late-term abortions and infanticide without legal repercussions. That means, there's a great possibility to remove much needed civil and criminal penalties for killing babies born alive under almost any circumstances under AB 2223.

This is the most extreme, anti-life bill in California's history. It legalizes infanticide and we absolutely cannot agree with the use of euphemisms like "personal reproductive decisions" and 'reproductive justice' to justify and encourage the killing of babies in and outside the womb.

On behalf of thousands of partners in our community, we ask you to please vote No on AB 2223.
We appreciate your leadership on this critical human's life issue.

Sincerely,
Timothy & Sarah Kim
Founder, Co-President
Traditional Values for Next Generations

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

LIBERTY BAPTIST CHURCH

March 30, 2022

To: Members of the California State Assembly &
Members of the Assembly Judiciary Committee

Re: AB2223

Greetings from your constituents in Assembly District 57, representative Lisa Calderon. We write today with a very troubled heart and concern for the very conscience of our state and nation. We have come to a point where there is an utter disregard for life in its most innocent and helpless form, that of our precious preborn, and now recently born citizens. The language in the bill that is before the Judiciary Committee is extremely troubling. We believe that all life is sacred and the blatant disregard for life in the womb and now, with the use of the word "perinatal" (which is commonly understood to mean infants in the womb, and also born and as many as 7 days out of the womb) out of the womb, is a disgusting display of the degeneration of our morals as a society, and a direct violation of the law of God. We further extend this reproof as a reminder to you that:

- This bill is a blatant disregard for life created in the image and likeness of God. That life, beginning at the moment of conception, and sacred from that moment until death, should not be left to the discretion of politicians with immoral agendas.
- This bill is a clear disregard for the rights of every person to life, liberty and the pursuit of happiness, as so clearly stated in our founding documents, particularly the Declaration of Independence.
- This bill is a clear and willful rejection of God's Law, which emphatically states, "Thou shalt not kill," and serves as a foundation for the laws of our nation and this republic.
- This bill is a demonstration of willful negligence on the part of our elected officials. You have no power outside of the will of your constituents, and the authority of God, and as servants of the people, you have a responsibility to protect our land from these vile and abominable proposals that are sure to bring further judgment.

So, on behalf of the Liberty Baptist Church, and many, many other like-minded churches, and people in this state, we demand that AB2223 be thrown out and disregarded.

Deuteronomy 18:10 "That innocent blood be not shed in thy land, which the LORD thy God giveth thee for an inheritance, and so blood be upon thee."

Respectfully,

Pastor Max H. Graves, Jr
& Liberty Baptist Church

12029 Pine St.
Norwalk, CA 90650
(562)833-3701

www.LBCFamily.church

Pastor Max H. Graves, Jr.
Pastor Jason Jasper
Pastor Kev

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REALIMPACT

A Ministry of Calvary Chapel Chino Hills

March 29, 2022

Assemblymember Mark Stone
Chair of the Assembly Judiciary Committee
1020 N Street, Room 104
Sacramento, CA 95814

RE: A.B. 2223 – LETTER OF OPPOSITION

Dear Honorable Mark Stone & Committee Members,

Real Impact monitors legislation for a coalition of people of faith throughout California. Our advocacy reaches tens of thousands of voters to educate, equip, and encourage them to advocate for policies and issues which they consider important. These issues and policies include the protection of life, strengthening the family institution, and upholding religious liberty in California.

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

A.B. 2223 states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

This bill goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

For these reasons, we urge you to oppose A.B. 2223.

Sincerely,

Gina Gleason
Director, Real Impact

cc: Assemblymember Jordan Cunningham (Vice Chair)
Assemblymember Laurie Davies
Assemblymember Robert Rivas
Assemblymember Chris Holden
Assemblymember Kevin Kiley
Assemblymember Eloise Gomez Reyes
Assemblymember Ash Kalra
Assemblymember Brian Maienschein

P.O. Box 1273, Chino Hills, CA 91709 · Realimpact.us · 909.393.4741

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Right to Life
KERN COUNTY

March 29, 2022

Assemblymember Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

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Richard Garcia
President

Annie Elrod
Treasurer

Pam Francis
Secretary

Michael Arriola
Director

Michael Molatore
Director

Dr. Regina Ng
Director

Joel Torczon
Director

Dear Assemblymember Stone,

Gov. Gavin Newsome and the super majority in our legislature have made no secret about their desire to make California the abortion capitol of America. The number of pro-abortion bills introduced this year alone attest to goal, along with the Future of Abortion Council established by the governor in September.

That said, nothing could have prepared those of us who value life, born and preborn, for the diabolical AB2223, which removes all civil and criminal penalties for killing babies born alive under any circumstances. Depending on how the term "prenatal" is interpreted by the courts – and you can count on this barbaric bill landing in the courts should it be enacted – AB2223 would legalize the infanticide of children several weeks after birth.

This is not about expanding abortion rights, this is a degree of evil that the overwhelming majority of Americans, regardless of how they identify politically, cannot stomach. Nor will they tolerate the presence in elected office of those who would support such a heinous bill. If the thought of killing babies born alive won't stay Democrats' hands from approving this bill, the possibility of losing their seats might.

AB2223 is the most extreme, anti-life bill in California's history, and we intend to do everything in our power to defeat it.

Sincerely,

Marylee

Marylee Shrider
Executive Director

PO Box 11104 Bakersfield, Ca. 93389 Phone: (661)864-7508

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

THE NATIONAL CENTER FOR LAW & POLICY

SUBMITTED VIA POSITION LETTER PORTAL

March 29, 2022

Assembly Judiciary Committee
1020 North Street, Room 104
Sacramento, CA 95814

Re: Letter in Strong Opposition to AB-2223—Infanticide Decriminalization

Dear Chair and Honorable Members of the Assembly Judiciary Committee,

I write on behalf of my fellow citizens of California and The National Center for Law & Policy, where I serve as president and chief counsel. Both in my capacity as a constitutional attorney practicing before the U.S. Supreme Court and as a father of three precious adopted children, I strongly urge you to vote **no** on AB-2223. This egregious bill would, if enacted, endanger children and legalize infanticide.

The relevant portion of AB-2223 reads:

"123467.
(a) Notwithstanding any other law, **a person shall not be subject to civil or criminal liability or penalty**, or otherwise deprived of their rights, **based on their actions or omissions with respect to their pregnancy** or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or **perinatal death** (emphasis added)."

"Perinatal" has no fixed definition in medicine today, but includes the death of a child weeks, months and even possibly up to a year after the child's birth. As written, the sweeping language of this bill will legalize child homicide or murder, whether through neglect, exposure, starvation, strangulation or other unlawful means. This is unacceptable outcome for a civilized people who claim to value human life. I strongly urge you to vote no on AB-2223.

Sincerely,

Dean R. Broyles, Esq.
President & Chief Counsel
The National Center for Law & Policy

539 West Grand Avenue – Escondido, CA 92025
(760) 747-4529 – Fax (760) 747-4505
www.nclplaw.org

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THE SALT&LIGHT COUNCIL

March 29, 2022

March 29, 2022
Assembly Member Mark Stone
Chair of the Judiciary Committee
Legislative Office Building
1020 N Street, Room 104
Sacramento, California 95814

RE: AB 2223- Infanticide Decriminalization - OPPOSE

Dear Assembly Member Stone:

As an organization with affiliated churches throughout California, The Salt & Light Council opposes AB 2223, and respectfully urges your opposition, as well.

New language added to AB 2223 shields a mother from civil and criminal charges for any "actions or omissions" related to her pregnancy. SEC. 7 123467 "is added to the Health and Safety Code," to include "miscarriage, stillbirth, or abortion, or perinatal death." Although definitions of "perinatal death" vary, all of them include the demise of newborns seven days or more after birth. Further, the bill protects anyone who "aids or assists a pregnant person in exercising" those rights.

The baby in the womb of the mother has human rights too, and we look to you to protect the lives of both the mother *and* the baby she is carrying by opposing this bill.

Sincerely,

Dran Reese | President

Gail Levin | Director

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CONCERNED
WOMEN *for* AMERICA
LEGISLATIVE ACTION COMMITTEE

March 28, 2022

The Honorable Mark Stone, Chair
Assembly Committee on Judiciary
1020 N Street, Room 104
Sacramento, CA 95814

RE: Assembly Bill 2223 (Wicks) - OPPOSE

Dear Chair Stone and Committee members:

Concerned Women for America Legislative Action Committee (CWALAC) strongly opposes AB 2223. Under the guise of "reproductive health," this bill decriminalizes killing babies in or out of the womb. Beyond any measure proposed in the state before this time, AB 2223 prohibits civil or criminal liability for anyone who "aids or assists" the mother in the killing of a baby, including abortion or perinatal death.

Although definitions of "perinatal death" vary, all of them include the demise of newborns seven days or more after birth. The California Welfare and Institutions Code (13134.5(b)) defines perinatal as "the period from the establishment of pregnancy to one month following delivery." AB 2223 would even protect Philadelphia abortionist Kermit Gosnell, who murdered three infants born alive after botched abortions, from prosecution.

CWALAC opposes AB 2223, and we respectfully ask, on behalf of our members in this state, for your NO vote.

Sincerely,

Marlo Tucker
State Director
CWA of California
For Concerned Women for America LAC

CONCERNED WOMEN OF AMERICA OF CALIFORNIA
1700 AVIARA PKWY, #130113 | CARLSBAD, CA 92013 |858-252-4735
DIRECTOR@CALIFORNIA.CWFA.ORG |CA.CWFA.ORG

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Right to Life League
1208 N. Lake Ave, Ste. 207
Pasadena, CA 91104

March 29, 2022

Assembly Member Mark Stone
Chair of the Judiciary Committee
1020 North Street, Room 104
Sacramento, CA 95814

Re: Letter in Opposition: AB 2223 Decriminalizing Infanticide

Dear Member Stone and Members of the Assembly Judiciary Committee,

On behalf of the Right to Life League, I urge you to vote NO on SB 2223.

AB 2223 decriminalizes infanticide by eliminating civil and criminal penalties for abortions and **including "perinatal death."**

The bill doesn't define the term "perinatal" – but it doesn't have to. Existing California law already supplies the definition. The term "perinatal" means "the period from the establishment of pregnancy to **one month following delivery**."[1]

Applying these pre-existing legal definitions means that AB 2223 effectively decriminalizes killing babies born alive ostensibly up through the first month after birth. And if the definition of "perinatal" expands further, AB 2223's scope will likewise expand to prevent prosecution of later child mortality.

AB2223 will further make it a crime to investigate a newborn death. AB 2223 seeks to change the scope of coroners' inquiries, adding a private cause of action against state employees – like detectives or coroners – who investigate why a newborn baby died. This is chilling and horrific.

[1] See ARTICLE 4. The Medi-Cal Benefits Program § 14134.5(b).

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The American Center for Law and Justice explains[2] how AB 2223 will thwart investigation and cover up evidence of infanticide following failed late-term abortions:

> Shortly into the start of the Biden Administration, the FDA lifted the in-person dispensing requirement, allowing abortion pills to be delivered through the mail. Many pro-abortion states do not have state level regulations concerning chemical abortions, and the FDA's change in its REMS program ensured even greater access to chemical abortion via mail – with no in-person visit requirement to verify the actual stage of pregnancy.
>
> When there is no in-person oversight of chemical abortions to verify the stage of pregnancy, there will be an increase in late-term chemical abortions. We already know that the abortion pills do not work in "safe or effective ways" one out of every four times. And that the pills are not recommended for use past 10-weeks of gestation. The abortion industry and pro-abortion advocates also know this. **The abortion lobby further knows and understands that an increase in late-term chemical abortions is going to lead to an increase in babies being born alive after failed abortions**. And abortion advocates do not want those live births to be investigated or recorded. They also don't want those babies to live.

AB 2223's use of "perinatal" and its prohibition of investigation into the deaths of newborns is not an accident, an oversight, or a misunderstanding. It is intentional, strategic evil designed to corrupt the executive branch of state government so as to cover up the deaths of babies born alive. Please vote NO on AB 2223.

Very Truly Yours,

Susan S. Arnall, Esq.

Since 1967

Vice President of Legal Affairs
Right to Life League

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[2] Summers, O. (2022, March 28). *California follows Maryland's lead with disturbing bill that could effectively legalize infanticide*. American Center for Law and Justice. Retrieved March 29, 2022, from https://aclj.org/pro-life/california-follows-marylands-lead-with-disturbing-bill-that-could-effectively-legalize-infanticide

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March 29, 2022
To: Assembly Judiciary Committee
Re: AB 2223: Reproductive Health – OPPOSE

Dear Assembly Judiciary Committee,

Capitol Resource Institute has been a strong defender of the dignity of life for decades. We have always stood in the gap in defense of life in the womb and we believe no person shall infringe upon or discriminate against someone on the basis of location. We are acquainted with the efforts to expand abortion access in California and establish this state as an abortion sanctuary, but we have never encountered the outright disregard for human life that is in AB 2223. Capitol Resource Institute stands in firm opposition to AB 2223: Reproductive Health because this bill will make the killing of newborn babies legal in California.

The recent amendments made to AB 2223 solidified the bill's fate as a threat to newborn babies across the state. The newly added language protects all parties from being criminally liable or penalized for an "alleged pregnancy outcome, including a miscarriage, stillbirth, or abortion, or perinatal death." Depending on how it is defined, perinatal death could mean the death of a child weeks or months after the child is born. California lawmakers have written a bill that provides apparent protections for infanticide.

The unthinkable has happened in California. Lawmakers have written a bill that is a threat to the dignity of human life by legalizing the killing of newborn babies. As a strong supporter of life in and outside of the womb, Capitol Resource Institute urges the committee to stand for life and vote NO on this dangerous bill.

We respectfully oppose AB 2223 and urge the committee to do the same.

Sincerely,

Karen England

Karen England
Executive Director
Capitol Resource Institute

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ASSEMBLY COMMITTEE ON JUDICIARY

AB-2223

Oppose

Dawn Hardesty 8/13/22 11:46 AM

A.B. 2223 will put babies and women at high risk of injury and abuse in the name of "women's healthcare."

Formerly known as "The Infanticide Bill," A.B. 2223 states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a cause that occurred in utero." "Perinatal" can be defined as a number of weeks after birth.

Even after amendments made by the author, A.B. 2223 remains one of the most dangerous bills in CA legislation, shielding mothers (and those who aid her) from prosecution of fetal and perinatal deaths due to drug-use during pregnancy, "back-alley abortions," and botched abortions, while making it difficult to investigate abuse, partial-birth abortions, and even infanticide. This means that a mother and anyone assisting her can be shielded from civil or criminal charges for the death of her newborn baby if that death was a result of something that took place while the baby was still in the womb without proving that the death is the result of something that took place within the womb.

A.B. 2223 goes beyond any other pro-abortion bill to undermine the value of life and place women in harm's way.

I urge you to stand for human life and vote "No" on A.B. 2223.

Maria Gonzalez 8/11/22 1:28 PM

Abortion is not Reproduction health. It is the termination a what is being reproduced which a living developing child. And also decriminalizes the killing of a newborn after 30 days. This bill is evil and has nothing but killing a baby for selfish reason from the mother or other person that's supposed to care for the child.

Elizabeth Jouvenat 8/8/22 1:49 PM

OPPOSE

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Dawn Hardesty 7/29/22 1:28 PM

A.B. 2223 will put babies and women at high risk of injury and abuse in the name of "women's healthcare."

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a cause that occurred in utero." "Perinatal" can be defined as a number of weeks after birth.

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A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and place women in harm's way.

I urge you to stand for human life and vote "No" on A.B. 2223.

Dawn Hardesty 7/8/22 3:04 PM

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A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and place women in harm's way.

I urge you to stand for human life and vote "No" on A.B. 2223.

Elizabeth Jouvenat 6/29/22 5:03 AM

OPPOSE

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Elizabeth Jouvenat 6/29/22 5:02 AM

OPPOSE

Tarah Jones 6/28/22 7:17 PM

Evil infanticide bill.

Emily Anderson 6/23/22 7:41 AM

Please oppose/amend this vague and potentially catastrophic bill. Please see below for detailed explanation of what needs to change to protect against infanticide.

Americans United for Life writes that, "'Perinatal' is not defined in this bill, causing critics to decry AB 2223 as infanticide. Elsewhere in California law, "perinatal care" is defined as "provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods." . . . Absent a definition in the bill, it certainly appears that the intent of this legislation is to legalize child abandonment (or worse) in the first weeks after birth. If this is not the bill sponsors' intent, they should amend the bill to clarify that the official policy of California is not state-sanctioned infanticide."

Furthermore, "… if a coroner investigates the alleged 'stillborn' baby's body and discovers the baby was not still-born, but born breathing and died of asphyxiation, that evidence couldn't be used to prosecute anyone for infanticide," the California Family Council

Thank you for opposing this bill as written.

Celina Garcia 6/21/22 3:16 PM

LETTER: OPPOSE AB2223 Infanticide.docx

Dawn Hardesty 6/18/22 2:00 PM

A.B. 2223 will put babies and women at high risk of injury and abuse in the name of "women's healthcare."

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to a cause that occurred in utero." "Perinatal" can be defined as a number of weeks after birth.

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A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and place women in harm's way.

I urge you to stand for human life and vote "No" on A.B. 2223.

Elizabeth Jouvenat 6/16/22 2:51 AM

OPPOSR

Patricia Whittemore 6/14/22 1:29 AM

Vote NO !!!!!!!

Monique Verdin 6/12/22 8:45 PM

This bill violates the 5th and 14th amendments as well as Penal Code section 187.This bill also removes law enforcement's state police power and duties to uphold Penal Code section 187. It seems to legalize infant death. Will there be profit from infant death, such as selling stem cells or organs to science?

Deborah Holmes 6/12/22 10:42 AM

On April 19th 2022, tens of thousands of "We the People" came from all over California to gather outside the Sacramento Capitol for CITIZEN LOBBY DAY to protest bill AB 2223. At 9:30am the doors of the assembly hearing chamber were locked to the public stating they were not letting the public enter due to the crowd size. It was widely publicized on press and social media sites. Subsequently the hearing of the Assembly Health Committee rescheduled to 4:00pm. Furthermore, due to the tremendous public pressure, the public comment procedure was altered from a maximum period time of 30 minutes to a maximum period time of 60 minutes and from 2 minutes max per person to 5 seconds maximum per person which only allowed a maximum of 300 people to voice their opinion. So only a few hundred Californians who had come from all over the state to express their extreme opposition to this bill were allowed in before doors were closed leaving thousands of Californians locked outside and not allowed to speak. During the public comment period only 5 persons gave support for this bill, yet it passed out of the Health Committee to the Appropriations Committee with a vote 11-3. WE THE PEOPLE are disturbed that we were totally not heard nor had our tens of thousands of voices of opposition acknowledged. This event of getting locked out of the process has created extreme lack of trust in our elected government officials who have sworn an oath to uphold the Constitution of the State of California and to fairly and justly represent WE THE PEOPLE, not government actors.

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Therefore, We the People, based on the extreme outpouring of fervor throughout our state and the rest of the country, respectfully demand that you acknowledge the voice of WE THE PEOPLE and vote no to defeat this aggressive, immoral, and divisive bill AB 2223.

Paul Interrante 6/12/22 8:20 AM

I strongly oppose this terrible bill that will allow for infanticide. All through the bills process, the people have opposed it and yet the Legislature keeps paying it along ignoring the voice of the people. Please listen and vote NO on AB2223

Thank you
Paul Interrante

Michael Van Roy 6/6/22 2:50 AM

This is a bad bill. It is labeled a reproductive health bill but it deals with what happens after birth when the mother is no longer in danger. It is infanticide pure and simple.

Dawn Hardesty 6/4/22 2:48 PM

I urge you to vote NO on AB 2223, the Infanticide Bill.

In yet another attempt to make it legal to kill a human baby born alive, the author has amended AB 2223. The bill continues to circumvent existing California law that requires life-saving treatment of any baby born alive, no matter the circumstances.

Following public outcry, Assemblywoman Buffy Wicks amended AB 2223, modifying the clause "perinatal death due to a pregnancy-related cause." The latest amendment replaces that phraseology with yet another overbroad, vague, and undefined clause – "perinatal death due to causes that occurred in utero."

AB 2223's amended language – "perinatal death due to causes that occurred in utero" – does nothing to change the bill's protections for anyone who kills a baby born alive during the first 28 days of life. It justifies and excuses the intent to kill a baby born alive by pointing to vague, blanket occurrences that happened at some undefined time prior to the baby's birth.

Once a person is born alive, she is protected by both state and federal law. California Health and Safety Code Section 123435 protects the rights of an infant prematurely born alive in the course of an abortion. The Reproductive Privacy Act also limits the right of abortion after the age of viability in keeping with U.S. Supreme Court precedent. AB 2223, as further amended, contradicts these legal realities to protect the killing of a newborn up to 28 days old. Vote NO on AB 2223!

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Dawn Hardesty 6/4/22 2:47 PM

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Following public outcry, Assemblywoman Buffy Wicks amended AB 2223, modifying the clause "perinatal death due to a pregnancy-related cause." The latest amendment replaces that phraseology with yet another overbroad, vague, and undefined clause - "perinatal death due to causes that occurred in utero."

AB 2223's amended language - "perinatal death due to causes that occurred in utero" - does nothing to change the bill's protections for anyone who kills a baby born alive during the first 28 days of life. It justifies and excuses the intent to kill a baby born alive by pointing to vague, blanket occurrences that happened at some undefined time prior to the baby's birth.

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patricia hebert 6/1/22 10:28 AM

LETTER: Press Release-May 3_2 Moral Outcry.pdf

Cristy Smith 5/27/22 11:14 AM

To the CA Judiciary Committee,

I oppose AB 2223. This bill will allow infanticide in the state of CA. To allow the murder of a child up to 28 days after it is born is morally wrong and should never be allowed. I urge you to vote NO or to abstain on AB 2223.

Thank you,
Cristy Smith
CA Resident
95834

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Patricia Hughes 5/22/22 11:05 PM

Hello, this is Patricia and I oppose AB 2223.

On behalf of educators as myself, and as a fellow follower of Jesus Christ, I can not fathom the idea of murdering a child while the baby is in utero, or out of the womb. This is vile, disgusting, shameful, and above all else, inhumane to the nth degree! It is my job as a follower of Christ and as a teacher to protect children, and AB2223 is doing the exact opposite. If a woman feels the need for an abortion, then they need to be given the support system, psychological assistance, and various other resources to encourage her to keep her child, or at the bare minimum to deliver her baby, and put it up for adoption. On behalf of the thousands and thousands of woman who have miscarriages and have lost their children, do not pass this disturbing law, but oppose it immediately.

Sincerely,

Patricia Hughes

Janet Riemer 5/19/22 12:03 PM

Bad bill!

Celina Garcia 5/19/22 10:19 AM

LETTER: OPPOSE AB2223 Infanticide.docx

Celina Garcia 5/19/22 10:12 AM

Oppose or abstain on AB2223!
I am watching your vote and the upcoming primaries!
VOTE NO on AB2223

Maria Gonzalez 5/18/22 1:46 PM

Please stop killing the babies inside the womb and after birth! This is muderous bill !!!

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Celina Garcia 5/18/22 1:45 PM

LETTER: OPPOSE AB2223 Infanticide.docx

Sherry Lorenz 5/18/22 11:53 AM

How can we ever have respect for life if we allow this bill to be enforced? I believe it is evil to murder. If this bill was allowed to pass, it would allow the termination in the perinatal stage meaning up to a year after birth. It condones men & women to not be responsible or accept the consequences of their sexual acts. It teaches our children to not think about their own responsibilities. I do not believe this is smart. It's a degradation of our society. We have enough of that! I do believe in abortion up to 28 weeks due to medical or mental problems. Please oppose this bill.

Kristi Robertson 5/12/22 10:40 AM

I oppose AB

Dawn Hardesty 5/11/22 8:58 AM

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Phyllis Labonog 5/9/22 11:50 PM

I am diametrically opposed to AB 2223 because it is MURDER and defies the sanctity of life that God ordained in His Word, the Bible. We have no right to take a life, according to the 10 Commandments. The Lord gives life and He takes it away. Let's not defy God's command and preserve that which is beloved by the Creator of the Universe. Taking the life of a baby is murder. Blood will be on the hands of those who approve of this bill. Let's put it this way... you wouldn't be alive if your mother chose to employ the sinful "rights" of this bill. Nor would any of your children, your own wife or any beloved person in your life. Cherish and save

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

the children We have to be their voice because they can't themselves.
Thank you.

Dawn Hardesty 5/6/22 8:23 PM

Please represent your constituents and OPPOSE AB 2223!
his bill has nothing to do with 'reproductive health"
No one in California wants this bill passed.
Vote NO on AB 2223.

Dawn Hardesty 5/6/22 8:21 PM

Please represent you constituents and OPPOSE AB 2223!
No one in California wants this bill passed.
Vote NO on AB 2223.

Maria Gonzalez 5/5/22 11:10 AM

No to infantcide! No to Abortion!

Elizabeth Jouvenat 5/4/22 6:01 PM

OPPOSE. LIFE IS A RIGHT.

Dawn Hardesty 5/3/22 8:47 PM

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

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I urge you to stand for human life and vote "No" on A.B. 2223.

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Erica Exberger 5/2/22 4:32 PM

I firmly oppose and urge you to vote no or abstain from AB 2223. The rights of the unborn and defenseless newborn babies must be protected. Furthermore law enforcement officials that serve all of us and these babies should be protected. A mother's duty is to her children and her rights are already protected by The Constitution of the United States.

Sincerely,

Erica Exberger

Cara Adams 5/2/22 10:44 AM

LETTER: Oppose AB2223.docx

Celina Garcia 5/2/22 10:21 AM

LETTER: OPPOSE AB2223 Infanticide.docx

Rachel Urbina 5/1/22 9:01 PM

PLEASE oppose this bill. It may have been well intentioned but it allows and even protects people who may decide to kill a baby after birth. The language is so open to interpretation and very vague.

For your own eternal sakes, but even more so, for the lives of the many unborn and their parents, please OPPOSE this bill. It needs to never see the light of day.

Thank you

Rachel Urbina 5/1/22 9:00 PM

PLEASE oppose this bill. It may have been well intentioned but it allows and even protects people who may decide to kill a baby after birth. The language is so open to interpretation and very vague.

For your own eternal sakes, but even more so, for the lives of the many unborn and their parents, please OPPOSE this bill. It needs to never see the light of day.

Thank you

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Darlene Yeates 4/30/22 9:20 PM

OPPOSE AB2223
PLEASE VOTE AGAINST PASSING THIS BILL!

Heather Gibson 4/29/22 12:27 PM

I am opposed to AB2223. This bill uses the word perinatal in its language which means that this bill would apply to a baby that is up to 28 days old. This is allowing the killing of babies prenatal and perinatal.

Sabrina Ward 4/26/22 3:37 PM

We Oppose and call on you, the Committee Who are:
parents /guardians PROTECT THE CHILDREN
health care profession : DO NO HARM/…HEAL
administrators: DO WHAT IS RIGHT/BE MEN AND WOMEN OF INTEGRITY
government officials: UPHOLD U.S. CONSTITUTIONAL FREEDOM AND LIBERTY, ABHOR DICTATORSHIP, SOCIALIST AGENDAS, ANARCHY AND ROGUE STATEHOOD

EVERYONE: PRAY TO GOD ALMIGHTY FOR MERCY AND FORGIVENESS

Gladys Swensrud 4/26/22 5:51 AM

What a horrific misnomer "Reproductive health" is for the actually killing of babies who are born alive. The passage of this bill takes humanity down a deep hole toward evil for which there is no return. PLEASE VOTE NO on this bill now...and in any form it may take in future legislation.

Dawn Hardesty 4/25/22 9:10 PM

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

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Julia Garner 4/24/22 9:46 PM

Please do NOT allow this. These precious lives don't have voices to speak up!

Patricia Whittemore 4/24/22 3:28 PM

Vote NO on this infanticide bill if you want to be re-elected.

Patricia Whittemore 4/24/22 3:27 PM

Vote NO on this infanticide bill if you want to be re-elected.

JERRY POUPARD 4/21/22 4:53 PM

Burn this law and find a middle ground. No one will be happy but follow the science. Science says when a heartbeat is evident and another time when a fetus is viable. The original ruling permitting abortion at the first trimester is closer to both of these than this stupid dangerous law. At some point that child is a viable person with his or her own rights. Provide a process for the mother beyond that timeline.

Martina Ernst 4/21/22 1:11 PM

I strongly oppose the killing of the next generation! Please consider that the passing of this bill will result in negative consequences for California and the United States. "Do not be deceived: God is not to be mocked. Whatever a man sows, that he will also reap." Galatians 6:7

Jennifer Cornes 4/21/22 12:39 PM

Please vote no.

Maria Fung 4/20/22 2:22 PM

This bill is tantamount to murder. A baby is a child. This bill goes against CA and federal laws that protect children from neglect and abuse.

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Chris Cover 4/20/22 11:54 AM

This is terrible! This is Murder! This is pure Evil! Please stop this bill now!

Janet Riemer 4/20/22 11:18 AM

This is infanticide! No to this!!

Maria Gonzalez 4/19/22 12:20 PM

Mothers should be charged for infantcide and have criminal liability to the highest murder degree!

This should not be in Health category. This is Murder!

I call for Wicks to step down from his position for trying to decriminalize killing of babies!

Elizabeth Jouvenat 4/19/22 10:11 AM

OPPOSE

Celina Garcia 4/19/22 9:17 AM

LETTER: OPPOSE AB2223 Infanticide.docx

Ashley Roller 4/19/22 8:58 AM

I STRONGLY OPPOSE THIS BILL

Tarah Jones 4/18/22 4:11 PM

Infanticide! Evil bill, oppose.

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Dawn Hardesty 4/18/22 2:23 PM

Oppose AB 2223.
A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Dawn Hardesty 4/18/22 2:21 PM

Oppose AB 2223.
This bill s legalized murder! It has nothing to do with reproductive health!
NO on AB 2223!

David Donner 4/18/22 9:35 AM

I oppose AB2223 and request this bill be opposed and removed. I value a women's choice to have an abortion. I also believe we should not be encouraging, promoting and making it too easy to have one. What is most disturbing about this current bill is that it would allow the killing of a baby after they are born. To me, this is murder of a baby and is illegal and should never be made legal. There should be no loopholes for murder. If an abortion is going to happen, I would expect that determination could be made much earlier in the process, not post pregnancy. It is deeply concerning that rather than looking at better ways to prevent the need for abortions and encourage greater responsibility where possible, we are loosening the laws to allow behaviors that are illegal and inhumane, including murder of precious and innocent children. This is heartless and cold. It is incomprehensible that our law makers would be proposing and considering legalizing such heinous acts. It must be opposed.

Tarah Jones 4/17/22 7:32 PM

INFANTICIDE. This bill is evil. OPPOSE.

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Dawn Hardesty 4/16/22 11:47 AM

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Karen Rabago 4/15/22 4:48 PM

I strongly oppose this bill. I believe that life begins at the moment of conception and that all life is precious and sacred. I consider it a heinous injustice to allow the killing of innocent children inside the wombs of their mothers, especially because they cannot speak up for themselves. Please do your research and see what actually takes place during all different types of abortion procedures and pay attention to how the child(ren) react. Do not avert your eyes. Look at how they are dismembered, how their skulls are crushed, how they fight to stay alive. Also, please consider the children who are born alive. How is it justified to leave them to die and not attempt to save their lives. This bill would allow abortions through all 9 months of pregnancy and if an infant somehow dies after they are born, their mother or a person who assists them cannot be prosecuted. I understand that this is not the way it's designed to work, but in the hands of someone with evil intent, it makes it permissible to kill a child. Furthermore, how is a child that is of 9 months gestational age, but not born yet any different from one of the same age outside of the womb. Unborn babies are the most vulnerable members of society. When will more people stand up to protect them? Please do not pass this bill. I pray that you do not.

Thank you for your time,
Karen Rabago

Penelope Larsen 4/15/22 10:57 AM

As an individual I oppose AB2223.

sonja shaw 4/14/22 7:18 AM

LETTER: Untitled document.pdf

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Karin Campbell 4/13/22 11:17 PM

I believe that the writer of AB 2223 did so in good faith in response to the charging of two women for the stillbirth of their babies. While I know nothing of their case, I cannot support this bill and strongly urge you to vote No. This bill removes any and all responsibility from a woman for the child in her womb and even after it is born. As a registered nurse, I know that a woman can find herself in deep distress and pregnant and the loss of a child can result and she deserves special consideration and care. But AB 2223 goes too far in that it removes all personhood or humanity from the child and completely strips him/her from any protections whatsoever, even those provided by our laws to animals and their young. Preborn and postnatal children are human and therefore have inherent value and dignity and should be given all the rights and protections that we give to all American citizens. Our children are the future of our nation and deserve to be valued, not left to die. If we fail to protect the most weak and vulnerable among us we are child abusers of the worse kind and do not deserve to be considered civilized. No other country on this earth has laws that absolve a mother for killing a child from conception until he/she is born alive up to 7 days after birth or beyond. I urge you to vote no to this profoundly evil and misdirected bill. And if you do pass this bill I hope you will look into the eyes of your own children and grandchildren and consider the fact that you have stripped them of all humanity and all rights under this law.
Respectfully submitted,
Karin Campbell

Chelsea Mariotti 4/13/22 8:24 PM

Dear Judiciary Committee,

I adamantly OPPOSE this bill. The language as it is now is unacceptable and a slippery slope. I am pro choice but this seems to be going to far when included in the definition is a child that has already been born? A LIVE birth! The abortion laws in our state already allow for abortions and are unlike some states where the cut off is very early in ones pregnancy. So additionally this seems like an unnecessary bill as people are not threatened with being charged for assisting with abortions, as it is already legal.

Sincerely,
Chelsea Mariotti
San Francisco, CA

Elizabeth Jouvenat 4/13/22 4:01 AM

OPPOSE

Amanda Jagusch 4/12/22 9:57 AM

This is an unneeded bill. Woman don't get charged with crimes because of pregnancy loss. Also, if a baby dies after birth for the most part the mother doesn't get charged with the baby's death; unless the child was murdered, or the mother was on drugs during her pregnancy. This

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bill will cause infanticide. Also, why make it legal to kill babies in the womb? A doctor has a right to not preform an abortion, the doctor should not be charged or penalized because they choose not to preform the procedure. If a woman wants one so badly, they can go to another doctor or facility. This bill will also have people coming to our state just to preform abortions. Many women use abortions as birth control and this bill will just encourage woman to be irresponsible.

Christian Lopez 4/11/22 6:59 PM

I strongly oppose AB2223
This bill along with it Authors and all who vote for and have voted to pass this bill are evil and should step down from your positions. Its clear you have lost the meaning of public servants.

Tammy Graf 4/10/22 11:43 AM

I oppose this bill

Diane Zimmerman 4/9/22 7:54 PM

LETTER: Di-Z-Oppose_BAD_BILLS_Sacramento.docx

Dawn Hardesty 4/9/22 1:14 PM

AB 2223
This bill is absolute EVIL. Allowing MURDER to become legal.
OPPOSE BILL AB 2223

Dawn Hardesty 4/8/22 6:48 PM

Oppose 2223
This has nothing to do with reproductive health - this is outright legalizing murder!
Oppose this awful bill.
VOTE NO ON AB 2223!

David Donner 4/8/22 4:47 PM

LETTER: Oppose_BILLS_Sacramento_2022.pdf

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Bryan Strycula 4/7/22 6:50 PM

I strongly oppose this bill and feel it is not appropriate and unconstitutional.

Bryan Strycula 4/7/22 6:49 PM

I strongly oppose this bill and feel it is in appropriate and unconstitutional.

Glenda Yakel 4/7/22 6:12 PM

LETTER: 040722 UPNORTHASSHOLES (1).PDF

Maria Gonzalez 4/7/22 1:19 PM

How can killing a baby 4 weeks after birth be considered Womans Health? This is murder of the innocent! Stop trying to Kill our babies!

WICKS should be fired from position immediately!!

Cindy Pontes 4/6/22 9:27 PM

Dear Committee Members,

I oppose this bill.

A portion of this bill states the Health and Safety Code will be amended to:

123469 (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a state superior court…

(d)(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

Please stand against legalizing the murder of innocent babies. The language "pregnancy outcome" is a play on words. That means the live birth of a child. This legislation will allow a mother to kill their child without fear of criminal charges or prosecution. Not only do they have no fear of prosecution, they can sue the law enforcement personnel, law enforcement agencies, and District Attorney's offices for trying to investigate and/or prosecute the murder of their child.

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Please protect the innocent children and oppose this bill.

Thank You,
Cindy Pontes

John Zirkel 4/6/22 5:46 PM

LETTER: Position on Upcoming Bills.doc

Adi Halo 4/6/22 5:07 PM

LETTER: AHHHOppose_BAD_BILLS_Sacramento_2022 Adi Halo.pdf

ASEFEH SHIRAFKAN 4/6/22 5:07 PM

LETTER: BS.pdf

Yvet Chambers 4/6/22 5:03 PM

LETTER: BAD_BILLS_Sacramento_2022_March.pdf

Cindy Russo 4/6/22 4:47 PM

LETTER: upcoming bills.pdf

Sarita Colberg 4/6/22 10:43 AM

As a woman I oppose this bill for failing to protect infants. It is disturbing and disgusting to say you are protecting women from unfair scrutiny or prosecution due to miscarriage or still birth. We change criminals who commit homicide of a pregnant woman with two charges for killing her unborn child and no less consideration should be given to these babies for other causes of death; they too are protected under our Constitution with the right to life, liberty and the pursuit of happiness. It is necessary for the medical examiner to look into the cause of death for illegal abortions (including unlicensed doctors) and infanticide by homicide or neglect of a newborn. We already have laws in place to allow newborns to be left at safe locations (anonymously) such as hospitals and fire stations to then be adopted to loving homes. Adoption

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of unwanted infants due to any reason from situation to financial has always been available. We also have Plan B available at drug stores without a prescription and abortion pills available through a doctor for the first trimester leaving surgical abortions as an archaic and truly unneeded procedure in modern society. Please stop the madness and continue to give oversight of viable fetal and infant death by stopping this bill.

Kevin Wyman 4/6/22 10:28 AM

This is murder

Sara Torres 4/6/22 10:01 AM

My name is Sara Torres I live in the Los Angeles area and I strongly oppose this bill .

Eilene Cary 4/6/22 9:35 AM

I very strongly oppose this bill. Do not let this bill pass. This is outright murder.

Cindy Pang 4/5/22 9:55 PM

Strongly Oppose AB 2223 - Provides Protections for Infanticide!

MARY CHRISTIANSEN 4/5/22 3:10 PM

I am a voting California resident. You are making it legal to kill a live human with this bill. Be careful. Soon you will try to make murder legal for anyone who you do not feel is a valid human.

Deborah Angiano 4/5/22 2:39 PM

I strongly oppose this bill !

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Deborah Woolley 4/5/22 2:39 PM

I oppose this legislative bill 2223. If successfully passed, this bill would essentially legalize infanticide. According to the bill text, women and anyone who "aids and assists" a person in exercising abortion will be protected from civil or criminal charges related to the termination of their pregnancy, which includes perinatal death. The term "perinatal" is defined as the time period within a pregnancy between 22 weeks and 7 days post-birth.

Dean Broyles, Attorney and President of the National Center for Law and Policy, exposes the shocking truth behind this bill, stating, "Depending on how the term 'perinatal' is interpreted by the courts, this bill legalizes the infanticide of children several weeks after their birth and possibly as late as their first birthday." In other words, if a parent is tired of the screaming, crying, and lack of sleep caused by their newborn, they can simply kill their child and face no legal repercussions.

As a California citizen, I implore all of you on both the Health and Judiciary Committees to OPPOSE A.B. 2223 and speak out against unequivocal evil.

I am appalled and disgusted to my core that a discussion of murdering a viable living creation of God is even being considered by our legislature.

Philipp Lomboy 4/5/22 12:16 PM

I oppose AB 2223 which could decriminalize infanticide by the mother or any accomplice. Babies both born and unborn, are valuable gifts of God. Every child should be protected by our laws, not abandoned to die because their mother doesn't want them.

The majority of Californians are firmly against late-term abortion and infanticide. I'm horrified and appalled AB 2223 is even under consideration.

Charles Chen 4/5/22 11:59 AM

Dear Committee Officers,
The A. B. 2223 bill will legalize the murdering to take of the innocent life after born. I strongly oppose this bill and urge you to vote NO on A. B. 2223 bill. Thank you.

Sarah Ament 4/5/22 11:59 AM

Just not ok

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Christoph Cavigioli 4/5/22 11:54 AM

What is next? Killing your children is OK if they don't do well in kindergarten? STOP THIS! You will not get away with this. I don't wish upon anyone that they should spend eternity 24/7/365/forever being tortured by demons. Why not be nice and be human and love life and help people to prosper and fulfill their calling upon earth ... and then spend eternity in Heaven with other wonderful people? For the love of God, don't allow yourself to support this demonic / Satanic bill. As you very well know, the Lord is taking notes in Heaven and knows who is naughty or nice. Be nice! PLEASE - in the name of Jesus! REPENT of even considering this bill before it's too late for you. This is what "loving your neighbor" means. I have never met you, but with all my love I pray that you don't end up in Hell, but instead end up in Heaven - so please do the RIGHT thing now while you still can! God bless, -chris

Brynn Ludel 4/5/22 11:12 AM

Killing babies is not something that should be legal, passing this bill legalizes murder and is not right at all.

Those babies have the right to live just like everyone else. Please do not pass this bill!

Nayeli Hoagland 4/5/22 10:57 AM

I strongly OPPOSE AB 2223

This bill permits 'perinatal' deaths without any law enforcement investigation. 'Perinatal' means babies already born, up to four weeks old. This means legalizing infanticide with no questions asked. This allows for murder to go unchecked and has nothing to do with Reproductive health. This bill goes against the U.S. Constitution and Bill of Rights that grant everyone the RIGHT to LIFE. This is a GOD given right that no one has the right to take in the name of "Choice" or "Reproductive Health".

Please OPPOSE AB 2223

Carla Endow 4/5/22 9:54 AM

I can't even fathom how an act of murder would be made legal with this bill. What kind of monster thinks of this? The children are our future. There are so many parents who cannot have children and would like to adopt. Why take this wonderful option away from them? I don't even know what kind of woman would decide to give birth only to murder their baby afterwards.

Please VOTE NO.

Thank you.
Carla E.

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Rodney Secress 4/5/22 8:58 AM

California lawmakers have crossed a red line by seeking to legitimize the killing of hours-old and even week-old infants. This is not about expanding abortion rights; this is a degree of evil that The overwhelming majority of Americans, regardless of how they identify politically, cannot stomach. I urge you to kill this bill immediately.

Joan Connell 4/5/22 8:32 AM

Said best here:
Oppose Wicks and her disregard for life
"AB 2223 is not only a pro-abortion bill - it removes all civil and criminal penalties for killing babies born alive under any circumstances," said Life Legal Defense Foundation Chief Executive Officer Alexandra Snyder. "The bill expressly authorizes any person to facilitate late-term abortions and infanticide without legal repercussions. Life Legal condemns the use of euphemisms like 'personal reproductive decisions' and 'reproductive justice' to justify and encourage the killing of babies in and outside the womb."

Michael McCabe 4/5/22 8:04 AM

Please OPPOSE this harmful bill! Its passage and implementation could lead to infanticide of helpless born-alive infants. There is no moral justification for such legislation which would endanger helpless born-alive infants who survive attempted abortions.

Please REJECT this bill!!

Michael J. McCabe
Chula Vista, CA

Joanne Demmer 4/5/22 7:59 AM

This bill is enfantcide. It must not pass. Those supporting it will be voted out of office asap.

Teah Porter 4/5/22 7:27 AM

I oppose! Babies are a gift and should be treated and cared for in a way that shows that. From the first heartbeat to the day they are delivered they deserve care. From the day they come out of the womb until they grow old they deserve care. This bill is evil. I oppose.

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Cynthia Houchin 4/4/22 11:14 PM

I 100% oppose AB 2223. I oppose legalizing any and all aspects of abortion.

Tiffany Desgroseilliers 4/4/22 11:11 PM

I am writing to strongly oppose this bill which uses dangerous wording in the name of "reproductive health". We must protect the most vulnerable Californians. Vote no to end this bill today!!!

Sylvia Olguin 4/4/22 11:04 PM

Please Oppose AB2223

Ray Shah 4/4/22 10:28 PM

I oppose this bill.

Kimberly Shepherd 4/4/22 10:02 PM

This is Murder!!! I strongly oppose this bill!!!

J Masters 4/4/22 9:50 PM

I noticed in this bill the limitations of coroners in performing examinations for fetal deaths.

Perhaps closer examination of the court-ordered release of a Pfizer document (https://phmpt.org/wp-content/uploads/2022/04/reissue_5.3.6-postmarketing-experience.pdf, see table 6) regarding deaths of the fetus following a vaccination should be conducted, because one would certainly want to know if the vaccines are causing the termination of pregnancies.

They attempted to obscure the results through creative study "accounting", but there were a number of terminated pregnancies following vaccinations.

Cute trick with the "perinatal" definition to include the immunity from prosecution for the termination of a baby's life AFTER a baby is born. So you're advocating for the legalization of post-delivery "baby killing" for up to 7 days?

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Let that be something to consider when you throw your approval behind this bill.

Philip Faber 4/4/22 9:45 PM

OPPOSE.

I strongly oppose this disgusting bill. It is very shameful that CA legislators are hiding the murdering of babies under "Reproductive Health." Babies, both born and unborn, are valuable gifts of God. Every child should be protected by our laws, not abandoned to die because their mother is unwilling to care for them. Mothers should be provided mental and emotional support to help to care for their baby or provide the option to place their child for adoptions. Killing innocent babies is horrific and I am appalled "The Infanticide" bill is being considered.

Melissa Faber 4/4/22 9:39 PM

OPPOSE.

I strongly oppose this disgusting bill of infanticide. Babies, both born and unborn, are valuable gifts of God. Every child should be protected by our laws, not abandoned to die because their mother is unwilling to care for them. Mothers should be provided mental and emotional support to help to care for their baby or provide the option to place their child for adoptions. Killing innocent babies is horrific and I am appalled such a bill is being considered.

Sarah Salazar 4/4/22 9:15 PM

Oppose

Dawn Hardesty 4/4/22 8:50 PM

Please OPPOSE AB 2223
A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

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Jolene Denham 4/4/22 8:09 PM

Dear Judiciary Committee,
Dear
I am writing in opposition to AB 2223 which effectively decriminalize killing babies born alive conceivably through the first two months of life. I ask you, at what point does life begin? This bill suggests that it must not begin until up to two months after birth. How absurd. Please vote no on AB 2223.

Thank you,
Jolene

Celina Garcia 4/4/22 7:57 PM

This is Beyond Evil!!! I implore you that you Oppose AB2223

Grace Koss 4/4/22 5:53 PM

The bill needs to be pulled as drafted. The vagueness of the language would encourage killing of newborns. This result may not be intended but if enacted, law enforcement's and responsible governmental units' hands are tied to handle infant deaths. The author must pull this bill.

Laura Watson 4/4/22 5:51 PM

Please oppose this bill!

Andrew Warren 4/4/22 5:31 PM

I oppose AB 2223 which would legalize perinatal termination. Terminating a baby after it is born. That is morally wrong and is most definitely murder. Even aborting a baby while it is in the womb that is growing should not be legal. A mother should decide to have an abortion right away as soon as she knows she is pregnant while the baby is just the size of a bean or less if she is going to have that sort of thing done.

Angie Low 4/4/22 4:41 PM

Our family is strongly opposed to this bill. This will open the door to providing protections for infanticide which is unthinkable.

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Hope Howell 4/4/22 3:44 PM

This bill is unprecedented, and goes beyond any other bill ever, to COMPLETELY undermine the value of life, born or unborn, and LEGALIZE MURDER. Killing born babies is an incomprehensible heinous crime that has no place in California legislation. I URGE YOU TO VOTE NO, and OPPOSE A.B 2223.

Jessica Arquette 4/4/22 3:38 PM

LETTER: AB 2223 Opposition Letter.pdf

Jennifer Radar 4/4/22 3:36 PM

As a CA resident and parent, I highly OPPOSE AB 2223. The right to life should be protected, both in and especially outside the womb. Please vote to OPPOSE this egregious bill.

Tennille Greenfield 4/4/22 3:31 PM

California has crossed a red line by seeking to legitimize the killing of hours-old and even week-old infants. This is not about expanding abortion rights; this is a degree of evil that the overwhelming majority of Americans, regardless of how they identify politically, cannot stomach. Depending on how the term "perinatal" is interpreted by the courts, this bill legalizes the infanticide of children several weeks after their birth and possibly as late as their first birthday. I

Please oppose this bill.

connie ricca 4/4/22 2:52 PM

This is a most horrific bill!! To legislate that it is demonic practice is acceptable, to kill full term infants, is abominable! This is a curse on all humanity!!! Aren't you glad your mother didn't kill you at birth???? LET THIS MURDEROUS BILL DIE IN THE LEGISTLATURE, NOT LET INFANTS DIE IN THE CLINIC!!!!!!!!!

Kari KC 4/4/22 2:51 PM

This bill's ambiguity is very dangerous. The definition of "perinatal death" varies immensely, and can include the death of a baby from 22 weeks gestation to 7 days post-birth or more.

AB 2223 prevents mothers from being held accountable for their pregnancies and may excuse any

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person who "aids or assists a pregnant person in exercising" these "rights" (to kill their child post-birth).
Essentially, this bill legalizes the infanticide of children after birth and even as late as their first birthday. Outrageous!

If committee members value the future of our state, it's citizens, or at the very least, their positions within our legislature, you will all vote NO on this horrendous bill, AB 2223!

Gloria Eller 4/4/22 2:20 PM

I am appalled that this bill has even been written and is being considered by our great state. The right to life should be protected, both in and outside the womb. Murdering a baby and removing all civil or criminal liability or penalty due to their miscarriage, stillbirth or abortion, or perinatal death is abhorrent.

It's clear the woman who wrote this bill is striving for the ability for California citizens to legally kill babies post delivery (Merriam-Webster defines "perinatal death" as "occurring in, concerned with, or being in the period around the time of birth." A 2005 article in the Journal of Epidemiology and Community Health defined perinatal as the "time period starting at 22 completed weeks (154 days) gestation and lasting through seven days after birth.").

Babies are the most innocent people among us and this bill legalizes infanticide.

I am sharing far and wide with everyone I speak with about this bill and I know the people you represent in California are not sick enough to want this type of astonishing bill.

Opose AB 2223

Sincerely,
Gloria Eller

LEGISLATIVE INTENT SERVICE, INC. (530) 666-1917

Melanie Seiler 4/4/22 12:52 PM

I strongly oppose AB 2223. This bill legalizes murder. There is no grey area in the matter of abortion. Destroying life is murder, and science has proven that life begins at conception. The 14th Amendment to the United States Constitution states that no person should be deprived of life without due process of law. Also, the Declaration of Independence, the foundation of our very nation, states that all people are endowed upon creation with the "unalienable rights" to "life, liberty, and the pursuit of happiness." Abortion violates both this and the 14th Amendment.
In the case of birth which threatens the life of the mother, every effort should be made to save both lives. However, basic maternal instincts always place higher importance on the life of the baby. Any woman who chooses to intentionally destroy the life of her baby, whether to save her own life or to avoid the "inconvenience" of motherhood, is morally misguided and perhaps mentally ill. Those who support this are complicit in murder and are contributing to the breakdown of morals and thereby the strength of our society.

This bill permits mothers to kill their own babies, including at the perinatal stage, which by any definition always includes a period of time after birth. This means that there will be no criminal penalty for mothers to murder their children for any reason, including something as trivial as too much "inconvenient behavior," such as crying, within the perinatal period. A

line must be drawn well before our society gets to such a point of blatant immorality.

It should also be noted that the recommendations for more "gender inclusive" language in this bill are unscientific, unnecessary, and ultimately destructive to families, which are the building blocks of our society. The statement referring to "systemic racial inequities" is also irrelevant and promotes reverse racism.

I urge you to vote no on AB 2223. It legalizes murder and deconstructs the very fabric of our society by ripping apart basic human morals.

Melanie Seiler 4/4/22 12:52 PM

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I urge you to vote no on AB 2223. It legalizes murder and deconstructs the very fabric of our society by ripping apart basic human morals.

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Evelyn Zhan 4/4/22 12:47 PM

Strongly oppose

Heidi Olander 4/4/22 12:31 PM

To assembly members on the Judiciary Committee,

I am appalled that this bill has even been written and is being considered by our great state.

The right to life should be protected, both in and outside the womb. Murdering a baby and removing all civil or criminal liability or penalty due to their miscarriage, stillbirth or abortion, or perinatal death is abhorrent.
This bill reads as striving for the ability for California citizens to legally kill babies post delivery (Merriam-Webster defines "perinatal death" as "occurring in, concerned with, or being in the period around the time of birth." A 2005 article in the Journal of Epidemiology and Community Health defined perinatal as the "time period starting at 22 completed weeks (154 days) gestation and lasting through seven days after birth.").
Babies are the most innocent people among us and this bill legalizes infanticide.
I am sharing far and wide with everyone I speak with about this bill and I know the people you represent in California are not sick enough to want this type of astonishing bill.

Oppose AB 2223.

Sincerely,
Heidi Olander

Megan Zappa 4/4/22 12:06 PM

Oppose

Why does Wicks author such questionable bills? Is she a satanist? Please advise.

Dweezil Zappa 4/4/22 11:58 AM

OPPOSE

agnes kocsis 4/4/22 11:56 AM

OPPOSE. ABSOLUTELY NO

steve Miller 4/4/22 11:45 AM

oppose

Laura Moore 4/4/22 11:19 AM

I strongly oppose this bill. This is murder of an unprotected baby.

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Natalie Daukas 4/4/22 10:57 AM

ABSOLUTELY NO ON THIS BILL!!

Melanie Fagundes 4/4/22 10:21 AM

No investigation into perinatal death?? These babies have rights also. This sounds like murder without consequences

jay biranbaum 4/4/22 10:16 AM

This is MAJOR govt outreach!! This is disgusting!!!! What is going on in california with all these horrific bills
This allows born babies to be killed!!! Why is the word woman being stricken out of this bill.. What is happening????
Not only do I oppose, I will leave the state of california if these insane bills pass

Catherine Rojas 4/4/22 9:37 AM

This bill is absolutely disgusting. As a woman that believes in a right to choose I don't believe in the murdering of children which this bill clearly advocates. Advocating and allowing woman to invoke perinatal death weeks after birth is murder. This goes beyond pro abortion bills. This bill undermines that value of life and legalizes murder. Killing born babies is an incomprehensible heinous crime that has no place in ANY legislation. I strongly oppose this bill as a Californian, woman, and American.
sincerely,
Catherine Rojas

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Courtney Peters 4/4/22 8:52 AM

My name is Courtney Peters and I am writing in opposition of AB 2223. Anyone who supports this bill is saying that they are condoning MURDER. Stop letting evil take over California and vote NO on AB 2223

Christian Lopez 4/4/22 8:05 AM

Good morning, I strongly oppose AB2223 and very strongly suggest this committee vote no and not advance this bill.
This bill is pretty much legalizing the murder of innocent children. It is pure evil and shows you worship satin. May GOD have mercy on your souls.

Dawn Suiter 4/3/22 11:46 PM

I believe life begins at conception and allowing a pregnant woman to take the life of her own child in utero should be illegal and punishable. Allowing her to try, fail and then later kill that child (which is how I read the passage below) is murder and should be dealt with as a criminal act.

EC. 8. Section 123468 of the Health and Safety Code is amended to read:
123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and ...

"perinatal" is ambiguous and could mean up to one year after birth. Decriminalizing a mother's killing a child up to a year after birth is horrific and must be opposed.
That is this section could be interpreted:
SEC. 7. Section 123467 is added to the Health and Safety Code, to read:
123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death.

People don't get pregnant - women do.

Stacey Wilder 4/3/22 11:17 PM

Dear Members of the Assembly Judiciary Committee,

I am writing today to oppose AB 2223-Reproductive Health and ask that you vote no on this bill.

The author of this bill has not done a thorough job in drafting this bill. Amendments are already being made to clarify overly broad terms and undefined terms. However, these amendments still don't add any definitive clarification. For example, in trying to clarify the perinatal term, the amendment now reads "...or perinatal death due to a pregnancy-related cause." What is a pregnancy-related cause? Can abortion be construed as a pregnancy-related cause; the abortion occurred as a result of the pregnancy.

As the bill analysis points out, it "is not a crime to have an abortion, miscarriage, or experience pregnancy loss." This bill is not needed and leaves the impression the introduction of it was rushed, therefore, it needs to be withdrawn by the author. If the author will not withdraw this bill, then please vote no on it.

Sincerely,
Stacey Wilder

Raluca Ploog 4/3/22 10:08 PM

Are we really going to legalize murder? This bill needs to be opposed as it attempts to legalize infanticide. Allowing babies to be killed after they are born is murder.

Please oppose. This is a no brainer.

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Ellen Pastusak 4/3/22 10:06 PM

Please vote a hearty NO on bill AB2223. Murdering precious babies is not okay.

J Masters 4/3/22 9:44 PM

Imagine your life being snuffed out by a parent who thought you were inconvenient, or worse, succumbed to organizations that harvest infant organs.

Please oppose AB2223!

Dawn Hardesty 4/3/22 9:35 PM

Oppose AB 2223
A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Jeff Cavano 4/3/22 9:14 PM

Manslaughter or murder of mid or late-term unborn human beings is unlawful. Manslaughter or murder of newborn human beings is unlawful.

Jennifer Kennedy 4/3/22 9:21 AM

OPPOSE. There is no word strong enough to condemn this evil bill. The plain language of AB2223 decriminalizes the murder of a live infant. This is not "reproductive rights"; this is not "reproductive health." It permits people to kill infants while authorities look the other way--and permits recovery of attorneys' fees for the murderer if anyone dares challenge the act! It is astonishing that a female legislator and relatively new mother, of all people, has introduced a bill that will directly result in the deaths of the most innocent among us, and those least able to defend themselves. What a horrific, nightmarish world Buffy Wicks is trying to create. Any legislator who votes for this bill to proceed should realize he or she

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is de facto killing his or her career in public service. The question must be asked of every legislator: What would your tiny newborn constituents think of this bill?
Jennifer Kennedy, Esq.
Pasadena

Timothy Dena 4/2/22 8:50 PM

AB23332 Criminal Abortion:

I am appalled at this bill. I am appalled in light of AB1993. As the author of both you are an absolute contradiction. In one bill you are adamant that every working person lose bodily autonomy (AB1993,) in the other you insist a women have absolute bodily autonomy to the point of not being investigated and held criminally or civilly liable for obtaining a "criminal abortion" as long as it is administered by herself. You acknowledge that there is such a thing as a criminal abortion and yet you eliminate the language that allows for that crime to be brought to justice. This is simply a method to allow abortions to be obtained until natural birth, which is, acknowledged in our laws, a crime. Please, do as you did with AB1993 and pull this bill, because it gets worse;

By using the term Perinatal death, you are extending the legality of abortions' after 24 weeks up to 28 days after birth, as per the definition of Perinatal death, which encompasses Neonatal death. Again, you acknowledge that this is illegal and yet you want to establish in law that these kinds of criminal acts can not be investigated or brought to justice. Stop the attack on life! Pull this bill!

Timothy Dena
(909)490-2397

Tarah Jones 4/2/22 6:01 PM

What the world is this? Infanticide?? This is an evil bill! I am opposed to the killing of babies, anyone for this should be ashamed.

Marnie Volpe 4/1/22 2:13 PM

Killing of babies is murder and is illegal. No law can permit the murder of babies. Simple as that.

Taneil Gutierrez 3/31/22 8:12 PM

Please oppose AB2223! We need to protect the lives of the unborn. This bill is unconstitutional and an atrocity.

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David Donner 3/31/22 4:13 PM

I oppose AB2223 and request this bill be opposed and removed. I value a women's choice to have an abortion. I also believe we should not be encouraging, promoting and making it too easy to have one. What is most disturbing about this current bill is that it would allow the killing of a baby after they are born. To me, this is murder of a baby and is illegal and should never be made legal. There should be no loopholes for murder. If an abortion is going to happen, I would expect that determination could be made much earlier in the process, not post pregnancy. It is deeply concerning that rather than looking at better ways to prevent the need for abortions and encourage greater responsibility where possible, we are loosening the laws to allow behaviors that are illegal and inhumane, including murder of precious and innocent children. This is heartless and cold. It is incomprehensible that our law makers would be proposing and considering legalizing such heinous acts. It must be opposed.

Mary Barnes 3/31/22 2:54 PM

STRONGLY OPPOSE
Infanticide is genocide and crimes against humanity.

Donna Pelletier 3/30/22 6:17 PM

I want it noted that I am in FIERCE OPPOSITION to AB2223 which would permit the killing of newborns days or even weeks after birth.

Barbara Wallace 3/30/22 10:52 AM

This bill removes important safeguards protecting premature infants from homicide, under the guise of protecting "reproductive health." It purports to protect women who practice "self managed abortions" after 20 weeks of pregnancy, but self-performed abortions that late in pregnancy do not further the goal of reproductive health. Medically necessary late-term abortions, performed by professional medical providers, are already allowed under California law. Furthermore, the wording of AB2223 insults women by repeatedly using the term "pregnant person" and replacing the word "woman" with "person" or "individual." Any law dealing with the uniquely female phenomenon of pregnancy should acknowledge biological reality and not attempt to erase our female bodies.

Elizabeth Jouvenat 3/30/22 4:49 AM

OPPOSE

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Sarah (Jung) Kim 3/29/22 11:01 PM

LETTER: I. OPPOSE AB2223 infinticide as individual.pdf

Fernando Valladares 3/29/22 10:20 PM

Dear Judiciary Committee,

I plea to you to stand for human life and vote "No" on AB 2223. This unprecedented bill will make infanticide (the killing of born babies) legal in California and has no place in California legislation. We should stand up for human life and instead of promote abortion we should help those who are struggling with their pregnancy and raising a baby with needed resources via assistance and charity. Please consider the negative consequences this will have on the heart of the state and value on human life.

Please vote "No" on AB 2223.

(I already submitted this to Judiciary Committee, but with Health Committee in header)

Thank you.

Fernando Valladares 3/29/22 10:18 PM

Dear Health Committee,

I plea to you to stand for human life and vote "No" on AB 2223. This unprecedented bill will make infanticide (the killing of born babies) legal in California and has no place in California legislation. We should stand up for human life and instead of promote abortion we should help those who are struggling with their pregnancy and raising a baby with needed resources via assistance and charity. Please consider the negative consequences this will have on the heart of the state and value on human life.

Please vote "No" on AB 2223.

Dawn Hardesty 3/29/22 8:26 PM

Please OPPOSE AB 2223
This bill is ridiculous! It states "reproductive health" but in reality it allows legalizing infanticide!!!

OPPOSE AB 2223!

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Arleen Scott 3/29/22 11:38 AM

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Damon Montanez 3/29/22 7:44 AM

To to the Committee on Judiciary:
Mark Stone (Chair), Jordan Cunningham (Vice Chair), Laurie Davies, Chris R. Holden, Ash Kalra, Kevin Kiley, Brian Maienschein, Eloise Gómez Reyes, Robert Rivas
and to all Assembly Members and Senators,
I am a California citizen and have lived in Ventura County my entire life.
I am opposed to AB-2223. Please do not support this bill. It is worded in a way that sounds more political than scientific. It is political to assume there are "systemic racial inequities". It is political to remove gender nouns of "Woman" in favor of "Pregnant Person". Those word changes and others in this bill, are not necessary and are not scientific. They are politically motivated and should not be adopted into any legislation.
This bill overall attempts to remove or change existing laws regarding abortion and regarding any investigations of child deaths that may be considered illegal or where foul play is suspected. It seeks to provide protections that should already exist, where foul play does not exist. This bill is not needed.
Please do not support this bill.
Thanks for your time and considerations.
Damon Montanez

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Deja Rangel 3/28/22 11:31 PM

A.B. 2223 will make infanticide (the killing of born babies) legal in California.

This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

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I urge you to stand for human life and vote "No" on A.B. 2223.

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A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Deja Rangel 3/28/22 11:17 PM

Oppose AB2223

Molly Garibaldi 3/28/22 9:18 PM

I oppose this bill that legalizes the murder of infants - born and unborn! I am ashamed to call myself a resident of a state that would even consider such a crime be considered "legal"! This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth. A.B. 2223 goes far beyond any other pro-abortion to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

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Jeanette Haas 3/28/22 5:05 PM

It is beyond unconscionable that the State would even consider a bill that allows for children to be murdered after they are born and call that OK, in any way. I oppose AB 2223 that uses "reproductive justice" to sanction infanticide, and allows this murder with no accountability for those who commit this murder.

Please take this bill out of committee and do not move it forward.

Jeanette Haas
95684

Tina Broughton 3/28/22 4:54 PM

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This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge you to stand for human life and vote "No" on A.B. 2223.

Charles Chen 3/28/22 3:39 PM

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This unprecedented bill states that a person will not be "subject to civil or criminal liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge Committee to stand for human life and vote "No" on A.B. 2223.

Charles Chen 3/28/22 3:26 PM

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This unprecedented bill states that a person will not be "subject to civil or criminal

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liability or penalty" based on their actions "with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death." "Perinatal" can be defined as a number of weeks after birth.

A.B. 2223 goes beyond any other pro-abortion bill to completely undermine the value of life and legalize murder. Killing born babies is an incomprehensible heinous crime that has no place in California legislation.

I urge lawmakers to stand for human life and vote "No" on A.B. 2223.

Elizabeth Hernandez 3/26/22 5:42 PM

The defenition of Perinatal: "Of, relating to, or being the period around childbirth, especially the five months before and one month after birth."

Sec. 7 section 123467 legalizes infanticide. This is a get out of jail free card for any parent or doctor that murders a child AFTER it is born.

This is not about health. It's about something much more heinous and evil. This bill is absolutely disgusting and is a travesty to society of it passed.

Not only will this have a moral impact on California, it will have a monetary impact. If this bill is passed, vast amounts of citizens will be leaving this state and with it will go future revenue to find your positions.

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REPORTS OF STANDING COMMITTEES

Committee on Judiciary

¶ [t8] Date of Hearing: April 5, 2022 (_fr)

¶ Mr. Speaker: Your Committee on Judiciary reports:

¶ AB 2223 (7-2)

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(fl) With the recommendation: Amend, and do pass as amended, and be re-referred to the Committee on Health.



_____, Chair (_fr)

STONE

¶ Above bill ordered to second reading.

CODE: 11

AMENDMENTS TO ASSEMBLY BILL NO. 2223
AS AMENDED IN ASSEMBLY MARCH 17, 2022

Amendment 1
On page 4, in lines 39 and 40, strike out "rape or crime against nature;" and insert:

rape;

Amendment 2
On page 7, in line 7, strike out "rights," and insert:

rights under this article,

Amendment 3
On page 7, in line 10, strike out "death." and insert:

death due to a pregnancy-related cause.

Amendment 4
On page 7, in line 36, strike out "federal district court or"

Amendment 5
On page 7, in line 37, strike out "A state claim brought in federal district court shall be a", strike out line 38 and insert:

(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

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Amendment 6
On page 7, in line 39, strike out "(b)" and insert:

(4)

Amendment 7
On page 8, below line 4, insert:

(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.

(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

- 0 -

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PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 2223

AMENDED IN ASSEMBLY MARCH 17, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL **No. 2223**



Introduced by Assembly Member Wicks
(Principal coauthor: Assembly Member Mullin)

February 15, 2022

An act to amend Section 27491 of the Government Code, and to amend Sections 103005, 123462, 123466, and 123468 of, to add Sections 123467 and 123469 to, and to repeal Section 103000 of, the Health and Safety Code, relating to reproductive health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2223, as amended, Wicks. Reproductive health.

(1) Existing law requires a county coroner to hold inquests to inquire into and determine the circumstances, manner, and cause of violent, sudden, or unusual deaths, including deaths related to or following known or suspected self-induced or criminal abortion. Existing law requires a coroner to register a fetal death after 20 weeks of gestation, unless it is the result of a legal abortion. If a physician was not in attendance at the delivery of the fetus, existing law requires the fetal death to be handled as a death without medical attendance. Existing law requires the coroner to state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, and the conditions, if any, that gave rise to these causes.

This bill would delete the requirement that a coroner hold inquests for deaths related to or following known or suspected self-induced or criminal abortion, and would delete the requirement that an unattended

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fetal death be handled as a death without medical attendance. The bill would prohibit using the coroner's statements on the certificate of fetal death to establish, bring, or support a criminal prosecution or civil cause of damages against any person.

(2) Existing law, the Reproductive Privacy Act, provides that every individual possesses a fundamental right of privacy with respect to their personal reproductive decisions. Existing law prohibits the state from interfering with a pregnant person's right to choose or obtain an abortion before the fetus is viable or when it is necessary to protect the life and health of the pregnant person. Under existing law, an abortion is unauthorized if either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable.

Existing law, the Tom Bane Civil Rights Act, authorizes an individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, to institute or prosecute in their own name and on their own behalf an action for damages, as prescribed.

This bill would prohibit a person from being subject to civil or criminal liability, or otherwise deprived of their rights, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome or based solely on their actions to aid or assist a pregnant person who is exercising their reproductive rights. The bill would clarify that an abortion is unauthorized if performed by a person other than the pregnant person and either the person performing the abortion is not a health care provider that is authorized to perform an abortion or the fetus is viable. The bill would authorize a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and would require a court, upon a motion, to award reasonable attorneys' fees and costs to a prevailing plaintiff. *The bill would also authorize a person aggrieved by a violation of the Reproductive Privacy Act to bring a civil action pursuant to the Tom Bane Civil Rights Act. The bill would provide for the indemnification of employees or former employees of public agencies who were acting within the scope of their employment.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Reproductive justice is a framework created by Black women in 1994 to address the intersectional and multifactored issues that women of color and their families face in society.

(b) Reproductive justice is the human right to control our bodies, sexuality, gender, work, and reproduction. That right can only be achieved when all people, particularly women and girls, have the complete economic, social, and political power and resources to make healthy decisions about their bodies, families, and communities in all areas of their lives. At the core of reproductive justice is the belief in the right to bodily autonomy, the right to have children, the right to not have children, and the right to parent the children we have with dignity and respect in safe and sustainable communities.

(c) A critical part of realizing reproductive justice for people in California is clarifying that there shall be no civil and criminal penalties for people's actual, potential, or alleged pregnancy outcomes.

(d) Across the country, people have been criminally prosecuted for having miscarriages or stillbirths or for self-managing an abortion. California has not been exempt. Despite clear law that ending or losing a pregnancy is not a crime, police have investigated and prosecutors have charged people with homicide for pregnancy losses.

(e) Also across the country, pregnant people are under threat of civil penalties for their actual, potential, or alleged pregnancy outcomes and civil penalties have been threatened against people who aid or assist pregnant people in exercising their rights.

(f) Pregnancies can end in a range of outcomes. Nationwide, as many as one in five known pregnancies end in miscarriage. In California, as many as 2,365 pregnancies per year end in stillbirth, meaning perinatal loss after 20 weeks gestation. Many pregnancy losses have no known explanation.

(g) People also need to end pregnancies by abortion, including self-managed abortion, which means ending one's own pregnancy outside of the medical system.

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(h) Every Californian should have the right to feel secure that they can seek medical assistance during pregnancy without fear of civil or criminal liability.

(i) The threat of criminal prosecution of pregnancy outcomes is partly traceable to out-of-date provisions that give coroners a duty to investigate certain abortions and pregnancy losses. Based on these provisions, health care providers and institutions report people to law enforcement for pregnancy losses, leading to harmful investigations and even unlawful prosecutions.

(j) Civil and criminal penalties imposed on pregnant people is a critical issue for Black, Indigenous, and other people of color, who experience adverse pregnancy outcomes as a result of systemic racial inequities and are more likely to be under scrutiny of state systems like child welfare or immigration.

(k) The threat of criminal prosecutions or civil penalties on pregnant people through child welfare, immigration, housing, or other legal systems has a harmful effect on individual and public health. When a person fears state action being taken against them related to their pregnancy, they are less likely to seek medical care when they need it. If they do seek care, punishing them for actual, potential, or alleged pregnancy outcomes interferes with professional care and endangers the relationship between providers and patients.

(*l*) That is why major medical groups like the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Public Health Association oppose civil and criminal penalties for actual, potential, or alleged pregnancy outcomes.

SEC. 2. Section 27491 of the Government Code is amended to read:

27491. It shall be the duty of the coroner to inquire into and determine the circumstances, manner, and cause of all violent, sudden, or unusual deaths; unattended deaths; deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by subdivision (g) of Section 1746 of the Health and Safety Code in the 20 days before death; known or suspected homicide, suicide, or accidental poisoning; deaths known or suspected as resulting in whole or in part from or related to accident or injury either old or recent; deaths due to drowning, fire, hanging,

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gunshot, stabbing, cutting, exposure, starvation, acute alcoholism, drug addiction, strangulation, aspiration, or where the suspected cause of death is sudden infant death syndrome; death in whole or in part occasioned by criminal means; deaths associated with a known or alleged ~~rape or crime against nature;~~ *rape;* deaths in prison or while under sentence; deaths known or suspected as due to contagious disease and constituting a public hazard; deaths from occupational diseases or occupational hazards; deaths of patients in state hospitals serving the mentally disordered and operated by the State Department of State Hospitals; deaths of patients in state hospitals serving the developmentally disabled and operated by the State Department of Developmental Services; deaths under circumstances that afford a reasonable ground to suspect that the death was caused by the criminal act of another; and any deaths reported by physicians or other persons having knowledge of death for inquiry by coroner. Inquiry pursuant to this section does not include those investigative functions usually performed by other law enforcement agencies.

(a) If the coroner conducts an inquiry pursuant to this section, the coroner or a deputy shall personally sign the certificate of death. If the death occurred in a state hospital, the coroner shall forward a copy of the report to the state agency responsible for the state hospital.

(b) The coroner shall have discretion to determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of this section, and if inquiry determines that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize that physician to sign the certificate of death.

(c) For the purpose of inquiry, the coroner shall have the right to exhume the body of a deceased person when necessary to discharge the responsibilities set forth in this section.

(d) A funeral director, physician, or other person who has charge of a deceased person's body, when death occurred as a result of any of the causes or circumstances described in this section, shall immediately notify the coroner. A person who does not notify the coroner as required by this section is guilty of a misdemeanor.

SEC. 3. Section 103000 of the Health and Safety Code is repealed.

Amendment 1

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SEC. 4. Section 103005 of the Health and Safety Code is amended to read:

103005. (a) The coroner shall, within three days after examination of the fetus, state on the certificate of fetal death the time of fetal death, the direct causes of the fetal death, the conditions, if any, that gave rise to these causes, and other medical and health section data as may be required on the certificate, and shall sign the certificate in attest to these facts. The coroner shall, within three days after examining the body, deliver the death certificate to the attending funeral director.

(b) This section shall not be used to establish, bring, or support a criminal prosecution or civil cause of action seeking damages against any person, whether or not they were the person who was pregnant with the fetus. Through its courts and statutes and under its Constitution, California protects the right to reproductive privacy, and it is the intent of the Legislature to reaffirm these protections.

SEC. 5. Section 123462 of the Health and Safety Code is amended to read:

123462. The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every individual has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with an individual's fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

SEC. 6. Section 123466 of the Health and Safety Code is amended to read:

123466. The state shall not deny or interfere with a pregnant person's right to choose or obtain an abortion prior to viability of

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the fetus, or when the abortion is necessary to protect the life or health of the pregnant person.

SEC. 7. Section 123467 is added to the Health and Safety Code, to read:

123467. (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their ~~rights,~~ *rights under this article,* based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal ~~death.~~ *death due to a pregnancy-related cause.*

Amendment 2

Amendment 3

(b) A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant person's voluntary consent.

SEC. 8. Section 123468 of the Health and Safety Code is amended to read:

123468. The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a) The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b) The abortion is performed on a viable fetus, and both of the following are established:

(1) In the good faith medical judgment of the physician, the fetus was viable.

(2) In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

SEC. 9. Section 123469 is added to the Health and Safety Code, to read:

123469. (a) A party aggrieved by conduct or regulation in violation of this article may bring a civil action against an offending state actor in a ~~federal district court or~~ state superior court. ~~A state claim brought in federal district court shall be a supplemental claim to a federal claim.~~

Amendment 4
Amendment 5

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+ *(b) Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:*
+ *(1) An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.*
+ *(2) A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.*
+ *(3) Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.*

ıge 7 39 ~~(b)~~

Amendment 6

+ *(4)* Upon a motion, a court shall award reasonable attorney's
40 fees and costs, including expert witness fees and other litigation
ıge 8 1 expenses, to a plaintiff who is a prevailing party in an action
2 brought pursuant to this section. In awarding reasonable attorney's
3 fees, the court shall consider the degree to which the relief obtained
4 relates to the relief sought.

Amendment 7

+ *(c) An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.*
+ *(d) (1) A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.*
+ *(2) For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes "threat, intimidation, or coercion" pursuant to Section 52.1 of the Civil Code.*
+ *(e) Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought*

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+ *under this section against an employee or former employee of a*
+ *public entity.*

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CONFLICT NOTIFICATION

March 29, 2022

OFFICE OF LEGISLATIVE COUNSEL

AB 2223

The above measure introduced by Assembly Member Wicks and set for hearing in the

Assembly Committee on Judiciary

appears to be in conflict with

AB 1666 - Bauer-Kahan
AB 2091 - Mia Bonta
AB 2698 - Friedman
SB 1375 - Atkins

Open the attachments included in this email for a complete list of Code Sections, Statutes Other Than Codes, Budget Items, and Constitution Sections in conflict.

A conflict exists when two or more bills and/or constitutional amendments amend, add, repeal, or amend and renumber the same section, article, chapter, division, title, or heading.

The enactment of these measures in their present form could give rise to a serious legal problem that may be avoided by appropriate amendments.

We urge you to consult with our Conflicts Unit at ConflictsUnit.Assembly@lc.ca.gov or (916) 341-8230 at your earliest convenience.

LIS Link: For more information regarding bills in conflict, go to the Reports page in LIS and select the Canned Reports tab to research Bills that Amend Identical Code Sections and Bill Status.

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AUTHOR'S AMENDMENTS

Committee on Judiciary

¶ [t8] March 17, 2022 (_fr)

¶ Mr. Speaker: The Chair of your Committee on Judiciary reports:

¶ AB 2223

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(fl) With author's amendments with the recommendation: Amend, and re-refer to the committee.

STONE , Chair (_fr)

CODE: 5